

1 A bill to be entitled
2 An act relating to retirement; amending ss. 110.123,
3 112.0801, 112.363, 112.65, and 121.011, F.S.;
4 conforming provisions to changes made by the act;
5 amending s. 121.021, F.S.; revising definitions;
6 amending s. 121.051, F.S.; deleting requirement that a
7 local governmental entity or the governing body of a
8 charter school or charter technical career center make
9 certain elections regarding benefits at the time the
10 entity or governing body joins the Florida Retirement
11 System; deleting requirement of employee retirement
12 contributions; deleting provision providing that
13 employer-paid employee contributions are subject to
14 certain taxes; amending s. 121.0515, F.S.; redefining
15 membership in the Special Risk Class; redefining
16 criteria for Special Risk Class membership; amending
17 s. 121.052, F.S., relating to the membership class of
18 elected officers; conforming provisions to changes
19 made by the act; deleting requirement of member
20 contributions; deleting provision providing for a
21 refund of contributions under certain circumstances
22 for an officer who leaves office; deleting provision
23 providing that a member who obtains a refund of
24 contributions waives certain rights under the Florida
25 Retirement System; amending s. 121.053, F.S.;
26 clarifying the employer contributions required for
27 Elected Officers' Class members who participate in the
28 Deferred Retirement Option Program; amending s.

29 | 121.055, F.S., relating to the Senior Management
30 | Service Class; conforming provisions to changes made
31 | by the act; deleting requirement of employee
32 | contributions; deleting a provision providing for a
33 | refund of contributions under certain circumstances
34 | for a member who terminates employment; deleting a
35 | provision providing that a member who obtains a refund
36 | of contributions waives certain rights under the
37 | Florida Retirement System; deleting a provision
38 | limiting the payment of benefits prior to a
39 | participant's termination of employment; amending s.
40 | 121.061, F.S.; conforming provisions to changes made
41 | by the act; amending s. 121.071, F.S.; requiring
42 | employer contributions to the retirement system;
43 | revising provisions relating to the refund of
44 | contributions under certain circumstances after
45 | termination of employment; deleting a provision
46 | providing that a member who obtains a refund of
47 | contributions waives certain rights under the Florida
48 | Retirement System; deleting a provision requiring
49 | repayment plus interest of an invalid refund; amending
50 | s. 121.081, F.S.; revising requirements for
51 | contributions for prior service performed on or after
52 | a certain date; amending s. 121.091, F.S.; modifying
53 | the early retirement benefit calculation for those
54 | members retiring on or after a certain date or before
55 | the normal retirement date to reflect the change in
56 | normal retirement age; revising provisions relating to

57 | disability retirement for judges; revising provisions
58 | providing for the refund of accumulated contributions
59 | if a member's employment is terminated for any reason
60 | other than retirement; revising the interest rate on
61 | benefits for members enrolling in drop after a certain
62 | date; conforming provisions to changes made by the
63 | act; amending s. 121.1001, F.S.; conforming provisions
64 | to changes made by the act; amending s. 121.101, F.S.;
65 | revising the cost-of-living adjustment depending on
66 | the date of retirement; amending s. 121.1115, F.S.;
67 | conforming provisions to changes made by the act;
68 | amending s. 121.1122, F.S.; conforming provisions to
69 | changes made by the act; amending s. 121.121, F.S.;
70 | deleting a provision requiring that the purchase of
71 | creditable service after an authorized leave of
72 | absence be purchased at the employer and employee
73 | contribution rates in effect during the leave of
74 | absence after a certain date; amending s. 121.125,
75 | F.S.; deleting a provision requiring that a penalty be
76 | assessed against certain employers that fail to pay
77 | the required contributions for workers' compensation;
78 | reenacting s. 121.161, F.S.; conforming provisions to
79 | changes made by the act; amending s. 121.182, F.S.;
80 | conforming provisions to changes made by the act;
81 | amending s. 121.35, F.S., relating to the optional
82 | retirement program for the State University System;
83 | deleting requirement of employee contributions;
84 | deleting a provision limiting the payment of benefits

85 before a participant's termination of employment;
86 conforming provisions to changes made by the act;
87 amending s. 121.355, F.S.; conforming provisions to
88 changes made by the act; amending s. 121.4501, F.S.;
89 changing the name of the Florida Retirement System
90 Investment Plan to the Public Employee Optional
91 Retirement Program; revising and providing
92 definitions; revising the benefit commencement age for
93 a member enrolled on or after a certain date; deleting
94 a provision providing for contribution adjustments as
95 a result of employer errors or corrections; deleting a
96 provision requiring an employer to receive a credit
97 for excess contributions and to reimburse an employee
98 for excess contributions, subject to certain
99 limitations; deleting a provision providing for a
100 pension plan participant to retain his or her prior
101 plan choice after a return to employment; deleting a
102 provision prohibiting a retiree who is reemployed from
103 renewing membership in the plan; deleting a provision
104 limiting certain refunds of contributions which exceed
105 the amount that would have accrued had the member
106 remained in the defined benefit program; revising
107 certain requirements and limitations with respect to
108 contributions; clarifying that participant and
109 employer contributions are earmarked for specified
110 purposes; revising vesting requirements; conforming
111 provisions to changes made by the act; amending s.
112 121.4502, F.S.; changing the name of the Florida

HB 1309

2012

113 Retirement System Investment Plan Trust Fund to the
114 Public Employee Optional Retirement Program Trust
115 Fund; amending s. 121.4503, F.S.; conforming
116 provisions to changes made by the act; amending s.
117 121.571, F.S.; revising requirements for submitting
118 Public Employee Optional Retirement Program
119 contributions; amending s. 121.591, F.S.; revising
120 provisions relating to the payment of benefits prior
121 to a member's termination of employment; deleting a
122 provision providing for the forfeiture of nonvested
123 accumulations and service credits upon payment of
124 certain vested benefits; deleting a provision
125 providing that the distribution payment method
126 selected by the member or beneficiary is final and
127 irrevocable at the time of benefit distribution;
128 deleting a provision prohibiting a distribution of
129 employee contributions if a qualified domestic
130 relations order is filed against the participant's
131 account; conforming provisions to changes made by the
132 act; amending s. 121.5911, F.S.; conforming provisions
133 to changes made by the act; amending s. 121.70, F.S.;
134 revising legislative intent; amending s. 121.71, F.S.;
135 deleting provisions requiring that employee
136 contributions be deducted from the employee's monthly
137 salary, beginning on a specified date, and treated as
138 employer contributions under certain provisions of
139 federal law; deleting a provision clarifying that an
140 employee may not receive such contributions directly;

Page 5 of 210

CODING: Words stricken are deletions; words underlined are additions.

hb1309-00

141 specifying the required employee retirement
142 contribution rates for the membership of each
143 membership class and subclass of the Florida
144 Retirement System; specifying the required employer
145 retirement contribution rates for each membership
146 class and subclass of the Florida Retirement System in
147 order to address unfunded actuarial liabilities of the
148 system; deleting a provision requiring an assessment
149 to be imposed if the employee contributions remitted
150 are less than the amount required under certain
151 circumstances; deleting a provision providing for the
152 employer to receive a credit for excess contributions
153 remitted and to apply such credit against future
154 contributions owed; amending ss. 121.72, 121.73,
155 121.74, 121.75, and 121.77, F.S.; conforming
156 provisions to changes made by the act; amending s.
157 121.78, F.S.; deleting a provision requiring that
158 certain fees be imposed for delinquent payments for
159 retirement contributions; deleting a provision
160 providing that an employer is responsible for
161 recovering any refund provided to an employee in
162 error; revising the terms of an authorized waiver of
163 delinquency; deleting a provision requiring an
164 employer to receive a credit for excess contributions
165 and to reimburse an employee for excess contributions,
166 subject to certain limitations; amending s. 1012.875,
167 F.S.; deleting requirement of employer and employee
168 contributions for members of the State Community

169 College System Optional Retirement Program on a
 170 certain date; deleting a provision limiting the
 171 payment of benefits prior to a participant's
 172 termination of employment; requiring the state to
 173 refund employee contributions plus interest made by
 174 participants between July 1, 2011, and June 30, 2012,
 175 at the actuarial assumption rate as determined by the
 176 Division of Retirement; providing legislative
 177 findings; providing that the act fulfills an important
 178 state interest; providing an effective date.

179
 180 Be It Enacted by the Legislature of the State of Florida:

181
 182 Section 1. Paragraph (g) of subsection (2) of section
 183 110.123, Florida Statutes, is amended to read:

184 110.123 State group insurance program.—

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

186 (g) "Retired state officer or employee" or "retiree" means
 187 any state or state university officer or employee who retires
 188 under a state retirement system or a state optional annuity or
 189 retirement program or is placed on disability retirement, and
 190 who was insured under the state group insurance program at the
 191 time of retirement, and who begins receiving retirement benefits
 192 immediately after retirement from state or state university
 193 office or employment. In addition to these requirements, ~~The~~
 194 ~~term also includes~~ any state officer or state employee who
 195 retires under the Public Employee Optional Retirement Program
 196 ~~Florida Retirement System Investment Plan~~ established under part

HB 1309

2012

197 II of chapter 121 shall be considered a retired state officer or
 198 employee or retiree if he or she:

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

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

203 Section 2. Section 112.0801, Florida Statutes, is amended
 204 to read:

205 112.0801 Group insurance; participation by retired
 206 employees.—

207 (1) Any state agency, county, municipality, special
 208 district, community college, or district school board ~~that~~ which
 209 provides life, health, accident, hospitalization, or annuity
 210 insurance, or all of any kinds of such insurance, for its
 211 officers and employees and their dependents upon a group
 212 insurance plan or self-insurance plan shall allow all former
 213 personnel who have retired before October 1, 1987, as well as
 214 those who retire on or after such date, and their eligible
 215 dependents, the option of continuing to participate in such ~~the~~
 216 group insurance plan or self-insurance plan. Retirees and their
 217 eligible dependents shall be offered the same health and
 218 hospitalization insurance coverage as is offered to active
 219 employees at a premium cost of no more than the premium cost
 220 applicable to active employees. For the retired employees and
 221 their eligible dependents, the cost of any such continued
 222 participation in any type of plan or any of the cost thereof may
 223 be paid by the employer or by the retired employees. To
 224 determine health and hospitalization plan costs, the employer

225 shall commingle the claims experience of the retiree group with
 226 the claims experience of the active employees; and, for other
 227 types of coverage, the employer may commingle the claims
 228 experience of the retiree group with the claims experience of
 229 active employees. Retirees covered under Medicare may be
 230 experience-rated separately from the retirees not covered by
 231 Medicare and from active employees, provided that ~~if~~ the total
 232 premium does not exceed that of the active group and coverage is
 233 basically the same as for the active group.

234 (2) For purposes of this section, "retiree" means any
 235 officer or employee who retires under a state retirement system
 236 or a state optional annuity or retirement program or is placed
 237 on disability retirement and who begins receiving retirement
 238 benefits immediately after retirement from employment. In
 239 addition to these requirements, any officer or employee who
 240 retires under the Public Employee Optional Retirement Program
 241 ~~Florida Retirement System Investment Plan~~ established under part
 242 II of chapter 121 is considered a "retired officer or employee"
 243 or "retiree" as used in this section if he or she:

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

246 (b) Has attained the age specified by s. 72(t)(2)(A)(i) of
 247 the Internal Revenue Code and has 6 years of creditable service
 248 ~~the years of service required for vesting as set forth in s.~~
 249 ~~121.021(45).~~

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

253 112.363 Retiree health insurance subsidy.—
 254 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—
 255 (b) For purposes of this section, a person is deemed
 256 retired from a state-administered retirement system when he or
 257 she terminates employment with all employers participating in
 258 the Florida Retirement System as described in s. 121.021(39)
 259 and:

260 1. For a participant member of the Public Employee
 261 Optional Retirement Program investment plan established under
 262 part II of chapter 121, the participant meets the age or service
 263 requirements to qualify for normal retirement as set forth in s.
 264 121.021(29) ~~and meets the definition of retiree in s.~~
 265 ~~121.4501(2).~~

266 2. For a member of the Florida Retirement System defined
 267 benefit program Pension Plan, or any employee who maintains
 268 creditable service under both the defined benefit program
 269 ~~pension plan~~ and the Public Employee Optional Retirement Program
 270 ~~investment plan~~, the member begins drawing retirement benefits
 271 from the defined benefit program of the Florida Retirement
 272 System pension plan.

273 (c)1. Effective July 1, 2001, any person retiring on or
 274 after such ~~that~~ date as a member of the Florida Retirement
 275 System, including any participant a member of the defined
 276 contribution program investment plan administered pursuant to
 277 part II of chapter 121, must have satisfied the vesting
 278 requirements for his or her membership class under the Florida
 279 Retirement System defined benefit program pension plan as
 280 administered under part I of chapter 121.

281 2. Notwithstanding the provisions of subparagraph 1.,
 282 ~~However,~~ a person retiring due to disability must either qualify
 283 for a regular or in-line-of-duty disability benefit as provided
 284 in s. 121.091(4) or qualify for a disability benefit under a
 285 disability plan established under part II of chapter 121, as
 286 appropriate.

287 (3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

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

304 2. Beginning July 1, 2002, each eligible participant
 305 ~~member~~ of the Public Employee Optional Retirement Program
 306 ~~investment plan~~ of the Florida Retirement System who has met the
 307 requirements of this section, or, if the participant ~~member~~ is
 308 deceased, his or her spouse who is the participant's ~~member's~~

309 designated beneficiary, shall receive a monthly retiree health
 310 insurance subsidy payment equal to the number of years of
 311 creditable service, as provided in this subparagraph, completed
 312 at the time of retirement, multiplied by \$5; however, no ~~an~~
 313 eligible retiree or beneficiary may ~~not~~ receive a subsidy
 314 payment of more than \$150 or less than \$30. For purposes of
 315 determining a participant's ~~member's~~ creditable service used to
 316 calculate the health insurance subsidy, a participant's ~~member's~~
 317 years of service credit or fraction thereof shall be based on
 318 the participant's ~~member's~~ work year as defined in s.
 319 121.021(54). Credit shall ~~must~~ be awarded for a full work year
 320 whenever ~~if~~ health insurance subsidy contributions have been
 321 made as required by law for each month in the participant's
 322 ~~member's~~ work year. In addition, all years of creditable service
 323 retained under the Florida Retirement System defined benefit
 324 program shall ~~Pension Plan must~~ be included as creditable
 325 service for purposes of this section. Notwithstanding any other
 326 provision in this section to the contrary, the spouse at the
 327 time of death ~~is~~ shall be the participant's ~~member's~~ beneficiary
 328 unless such participant ~~member~~ has designated a different
 329 beneficiary subsequent to the participant's ~~member's~~ most recent
 330 marriage.

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

333 112.65 Limitation of benefits.—

334 (1) ESTABLISHMENT OF PROGRAM.—The normal retirement
 335 benefit or pension payable to a retiree who becomes a member of
 336 any retirement system or plan and who has not previously

337 participated in such plan, on or after January 1, 1980, shall
 338 ~~may~~ not exceed 100 percent of his or her average final
 339 compensation. However, nothing contained in this section shall
 340 ~~does not~~ apply to supplemental retirement benefits or to pension
 341 increases attributable to cost-of-living increases or
 342 adjustments. For the purposes of this section, benefits accruing
 343 in individual participant ~~member~~ accounts established under the
 344 Public Employee Optional Retirement Program investment plan
 345 established in part II of chapter 121 are considered
 346 supplemental benefits. As used in this section, the term
 347 "average final compensation" means the average of the member's
 348 earnings over a period of time which the governmental entity has
 349 established by statute, charter, or ordinance.

350 Section 5. Paragraphs (g) and (h) of subsection (3) of
 351 section 121.011, Florida Statutes, are amended to read:

352 121.011 Florida Retirement System.—

353 (3) PRESERVATION OF RIGHTS.—

354 (g) Any member of the Florida Retirement System or any
 355 member of an existing system under this chapter who is not
 356 retired and who is, has been, or shall be dismissed from
 357 employment shall be considered terminated from active membership
 358 in such system.

359 1. If such dismissal is rescinded by proper authority or
 360 through legal proceedings, the member is eligible to receive
 361 retirement service credit for such period of dismissal provided
 362 ~~if~~:

363 a. The dismissal action taken against the member is
 364 determined to be incorrect and is negated, the employee is made

365 whole for the period of the dismissal or any portion thereof,
 366 and employment is reinstated; and

367 b. The employer pays into the Retirement System Trust Fund
 368 the total required employer contributions for the period for
 369 which the employee is made whole, plus interest at 6.5 percent
 370 compounded annually until full payment is made. The employee
 371 shall pay the total employee contributions, plus interest, if
 372 applicable. ~~The employer shall pay the interest on employee~~
 373 ~~contributions, if applicable.~~

374 2. If the dismissal action is subsequently changed to a
 375 suspension by proper authority or through legal proceedings, the
 376 member is eligible to receive retirement service credit,
 377 provided the member's employment is reinstated, restoring the
 378 employee-employer relationship, and the employee pays the total
 379 required employer and employee contributions and complies with
 380 all requirements in paragraph (e).

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

384 Section 6. Subsections (3), (7), and (15), paragraph (a)
 385 of subsection (19), paragraph (b) of subsection (22), and
 386 subsections (24), (29), (38), (39), (45), (55), and (59) of
 387 section 121.021, Florida Statutes, are amended to read:

388 121.021 Definitions.—The following words and phrases as
 389 used in this chapter have the respective meanings set forth
 390 unless a different meaning is plainly required by the context:

391 (3) ~~"Florida Retirement System" or "System"~~ means the
 392 general retirement system established by this chapter to be

393 known and cited as the "Florida Retirement System,"~~7~~ including,
 394 but not limited to, the defined benefit retirement program
 395 administered under the provisions of part I of this chapter
 396 ~~part, referred to as the "Florida Retirement System Pension~~
 397 ~~Plan" or "pension plan,"~~ and the defined contribution retirement
 398 program known as the Public Employee Optional Retirement Program
 399 and administered under the provisions of part II of this
 400 ~~chapter, referred to as the "Florida Retirement System~~
 401 ~~Investment Plan" or "investment plan."~~

402 (7) "City" means any municipality duly incorporated under
 403 the laws of the state."~~Division" means the Division of~~
 404 ~~Retirement in the department.~~

405 (15) (a) Until October 1, 1978, "special risk member" means
 406 any officer or employee whose application is approved by the
 407 administrator and who receives salary payments for work
 408 performed as a peace officer; law enforcement officer; police
 409 officer; highway patrol officer; custodial employee at a
 410 correctional or detention facility; correctional agency employee
 411 whose duties and responsibilities involve direct contact with
 412 inmates, but excluding secretarial and clerical employees;
 413 firefighter; or an employee in any other job in the field of law
 414 enforcement or fire protection if the duties of such person are
 415 certified as hazardous by his or her employer.

416 (b) Effective October 1, 1978, "special risk member" means
 417 a member of the Florida Retirement System who is designated as a
 418 special risk member by the division in accordance with s.
 419 121.0515. Such member must be employed as a law enforcement
 420 officer, a firefighter, or a correctional officer and must meet

HB 1309

2012

421 certain other special criteria as set forth in s. 121.0515.

422 (c) Effective October 1, 1999, "special risk member" means
423 a member of the Florida Retirement System who is designated as a
424 special risk member by the division in accordance with s.
425 121.0515. Such member must be employed as a law enforcement
426 officer, a firefighter, a correctional officer, an emergency
427 medical technician, or a paramedic and must meet certain other
428 special criteria as set forth in s. 121.0515.

429 (d)1. Effective January 1, 2001, "special risk member"
430 includes any member who is employed as a community-based
431 correctional probation officer and meets the special criteria
432 set forth in s. 121.0515(2) (e).

433 2. Effective January 1, 2001, "special risk member"
434 includes any professional health care bargaining unit or non-
435 unit member who is employed by the Department of Corrections or
436 the Department of Children and Family Services and meets the
437 special criteria set forth in s. 121.0515(2) (f).

438 (e) Effective July 1, 2001, the term "special risk member"
439 includes any member who is employed as a youth custody officer
440 by the Department of Juvenile Justice and meets the special
441 criteria set forth in s. 121.0515(2) (g).

442 (f) Effective August 1, 2008, "special risk member"
443 includes any member who meets the special criteria for continued
444 membership set forth in s. 121.0515(2) (k). ~~"Special risk member"~~
445 or ~~"Special Risk Class member"~~ means a member of the Florida
446 Retirement System who meets the eligibility and criteria
447 required under s. 121.0515 for participation in the Special Risk
448 Class.

HB 1309

2012

449 (19) "Prior service" under ~~part I~~ of this chapter means:

450 (a) Service for which the member had credit under one of
 451 the existing systems and received a refund of his or her
 452 contributions upon termination of employment. Prior service
 453 shall also include that ~~includes~~ service between December 1,
 454 1970, and the date the system becomes noncontributory for which
 455 the member had credit under the Florida Retirement System and
 456 received a refund of his or her contributions upon termination
 457 of employment.

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

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

466 1. Fees paid professional persons for special or
 467 particular services or include salary payments made from a
 468 faculty practice plan authorized by the Board of Governors of
 469 the State University System for eligible clinical faculty at a
 470 college in a state university that has a faculty practice plan;
 471 or

472 2. Any bonuses or other payments prohibited from inclusion
 473 in the member's average final compensation and defined in
 474 subsection (47).

475 (24) ~~(a)~~ "Average final compensation" means:

476 ~~1. For members initially enrolled before July 1, 2011, The~~

477 average of the 5 highest fiscal years of compensation for
 478 creditable service before retirement, termination, or death. For
 479 in-line-of-duty disability benefits, if less than 5 years of
 480 creditable service have been completed, the term "average final
 481 compensation" means the average annual compensation of the total
 482 number of years of creditable service. Each year used in the
 483 calculation of ~~to calculate the~~ average final compensation shall
 484 commence ~~commences~~ on July 1.

485 ~~2. For members initially enrolled on or after July 1,~~
 486 ~~2011, the average of the 8 highest fiscal years of compensation~~
 487 ~~for creditable service before retirement, termination, or death.~~
 488 ~~For in-line-of-duty disability benefits, if less than 8 years of~~
 489 ~~creditable service have been completed, the term means the~~
 490 ~~average annual compensation of the total number of years of~~
 491 ~~creditable service. Each year used to calculate average final~~
 492 ~~compensation commences on July 1.~~

493 ~~(a)(b)~~ The average final compensation ~~includes~~ shall
 494 include:

495 1. Accumulated annual leave payments, not to exceed 500
 496 hours; and

497 2. All payments defined as compensation in subsection
 498 (22).

499 ~~(b)(e)~~ The average final compensation ~~does~~ shall not
 500 include:

501 1. Compensation paid to professional persons for special
 502 or particular services;

503 2. Payments for accumulated sick leave made due to
 504 retirement or termination;

HB 1309

2012

505 3. Payments for accumulated annual leave in excess of 500
506 hours;

507 4. Bonuses as defined in subsection (47);

508 5. Third party payments made on and after July 1, 1990; or

509 6. Fringe benefits (for example, automobile allowances or
510 housing allowances).

511 (29) "Normal retirement date" means the date a member
512 attains normal retirement age and is vested, which is determined
513 as follows:

514 (a)~~1.~~ If a Regular Class member, a Senior Management
515 Service Class member, or an Elected Officers' Class member
516 initially enrolled before July 1, 2011:

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

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

522 ~~2. If a Regular Class member, a Senior Management Service~~
523 ~~Class member, or an Elected Officers' Class member initially~~
524 ~~enrolled on or after July 1, 2011:~~

525 ~~a. The first day of the month the member attains age 65;~~
526 ~~or~~

527 ~~b. The first day of the month following the date the~~
528 ~~member completes 33 years of creditable service, regardless of~~
529 ~~age.~~

530 (b)~~1.~~ If a Special Risk Class member ~~initially enrolled~~
531 ~~before July 1, 2011:~~

532 1.a. The first day of the month the member completes 6 or

HB 1309

2012

533 more years of creditable service in the Special Risk Class and
534 ~~attains age 55 and completes the years of creditable service in~~
535 ~~the Special Risk Class equal to or greater than the years of~~
536 ~~service required for vesting;~~

537 2.b. The first day of the month after ~~following~~ the date
538 the member completes 25 years of creditable service in the
539 Special Risk Class, regardless of age; or

540 3.e. The first day of the month after ~~following~~ the date
541 the member completes 25 years of creditable service and attains
542 age 52, which service may include a maximum of 4 years of
543 military service credit as long as ~~if~~ such credit is not claimed
544 under any other system and the remaining years are in the
545 Special Risk Class.

546 ~~2. If a Special Risk Class member initially enrolled on or~~
547 ~~after July 1, 2011:~~

548 ~~a. The first day of the month the member attains age 60~~
549 ~~and completes the years of creditable service in the Special~~
550 ~~Risk Class equal to or greater than the years of service~~
551 ~~required for vesting;~~

552 ~~b. The first day of the month following the date the~~
553 ~~member completes 30 years of creditable service in the Special~~
554 ~~Risk Class, regardless of age; or~~

555 ~~e. The first day of the month following the date the~~
556 ~~member completes 30 years of creditable service and attains age~~
557 ~~57, which service may include a maximum of 4 years of military~~
558 ~~service credit if such credit is not claimed under any other~~
559 ~~system and the remaining years are in the Special Risk Class.~~

560

HB 1309

2012

561 "Normal retirement age" is attained on the "normal retirement
562 date."

563 (38) "Continuous service" means creditable service as a
564 member, beginning with the first day of employment with an
565 employer covered under a state-administered retirement system
566 consolidated herein and continuing for as long as the member
567 remains in an employer-employee relationship with an employer
568 covered under this chapter. An absence of 1 calendar month or
569 more from an employer's payroll shall be considered a break in
570 continuous service, except for periods of absence during which
571 an employer-employee relationship continues to exist and such
572 period of absence is creditable under this chapter or under one
573 of the existing systems consolidated herein. However, a law
574 enforcement officer as defined in s. 121.0515 (2) ~~(3)~~ (a) who was a
575 member of a state-administered retirement system under chapter
576 122 or chapter 321 and who resigned and was subsequently
577 reemployed in a law enforcement position within 12 calendar
578 months of such resignation by an employer under such state-
579 administered retirement system shall be deemed to have not
580 experienced a break in service. Further, with respect to a
581 state-employed law enforcement officer who meets the criteria
582 specified in s. 121.0515 (2) ~~(3)~~ (a), if the absence from the
583 employer's payroll is the result of a "layoff" as defined in s.
584 110.107 or a resignation to run for an elected office that meets
585 the criteria specified in s. 121.0515 (2) ~~(3)~~ (a), no break in
586 continuous service shall be deemed to have occurred if the
587 member is reemployed as a state law enforcement officer or is
588 elected to an office which meets the criteria specified in s.

Page 21 of 210

CODING: Words stricken are deletions; words underlined are additions.

hb1309-00

589 121.0515(2)~~(3)~~(a) within 12 calendar months after the date of
 590 the layoff or resignation, notwithstanding the fact that such
 591 period of layoff or resignation is not creditable service under
 592 this chapter. A withdrawal of contributions will constitute a
 593 break in service. Continuous service also includes past service
 594 purchased under this chapter, provided such service is
 595 continuous within this definition and the rules established by
 596 the administrator. The administrator may establish
 597 administrative rules and procedures for applying this definition
 598 to creditable service authorized under this chapter. Any
 599 correctional officer, as defined in s. 943.10, whose
 600 participation in the state-administered retirement system is
 601 terminated due to the transfer of a county detention facility
 602 through a contractual agreement with a private entity pursuant
 603 to s. 951.062, shall be deemed an employee with continuous
 604 service in the Special Risk Class, provided return to employment
 605 with the former employer takes place within 3 years due to
 606 contract termination or the officer is employed by a covered
 607 employer in a special risk position within 1 year after his or
 608 her initial termination of employment by such transfer of its
 609 detention facilities to the private entity.

610 (39) (a) "Termination" occurs, except as provided in
 611 paragraph (b), when a member ceases all employment relationships
 612 with an employer ~~participating employers~~, however:

613 1. For retirements effective before July 1, 2010, if a
 614 member is employed by any such employer within the next calendar
 615 month, termination shall be deemed not to have occurred. A leave
 616 of absence constitutes a continuation of the employment

617 relationship, except that a leave of absence without pay due to
 618 disability may constitute termination if such member makes
 619 application for and is approved for disability retirement in
 620 accordance with s. 121.091(4). The department or state board may
 621 require other evidence of termination as it deems necessary.

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

631 (b) "Termination" for a member electing to participate in
 632 the Deferred Retirement Option Program occurs when the program
 633 participant ceases all employment relationships with an employer
 634 ~~participating employers~~ in accordance with s. 121.091(13),
 635 however:

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

642 2. For termination dates occurring on or after July 1,
 643 2010, if the participant member becomes employed by any such
 644 employer within the next 6 calendar months, termination will be

HB 1309

2012

645 deemed not to have occurred, except as provided in s.
646 121.091(13)(b)4.c. A leave of absence constitutes a continuation
647 of the employment relationship.

648 ~~(c) Effective July 1, 2011, "termination" for a member~~
649 ~~receiving a refund of employee contributions occurs when a~~
650 ~~member ceases all employment relationships with participating~~
651 ~~employers for 3 calendar months. A leave of absence constitutes~~
652 ~~a continuation of the employment relationship.~~

653 (45) (a) "Vested" or "vesting" means the guarantee that a
654 member is eligible to receive a future retirement benefit upon
655 completion of the required years of creditable service for the
656 employee's class of membership, even though the member may have
657 terminated covered employment before reaching normal or early
658 retirement date. Being vested does not entitle a member to a
659 disability benefit. Provisions governing entitlement to
660 disability benefits are set forth under s. 121.091(4).

661 ~~(a)(b) Effective July 1, 2001, through June 30, 2011, a 6-~~
662 ~~year vesting requirement shall be implemented for the defined~~
663 ~~benefit program of the Florida Retirement System. Pursuant~~
664 ~~thereto System Pension Plan:~~

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

669 2. Any member not employed in a regularly established
670 position on July 1, 2001, shall be deemed vested upon completion
671 of 6 years of creditable service, provided that ~~if~~ such member
672 is employed in a covered position for at least 1 work year after

HB 1309

2012

673 July 1, 2001. However, no a member shall be ~~is not~~ required to
 674 complete more years of creditable service than would have been
 675 required for that member to vest under retirement laws in effect
 676 before July 1, 2001.

677 ~~3. Any member initially enrolled in the Florida Retirement~~
 678 ~~System on July 1, 2001, through June 30, 2011, shall be deemed~~
 679 ~~vested upon completion of 6 years of creditable service.~~

680 ~~(b) Any member initially enrolled in the Florida~~
 681 ~~Retirement System on or after July 1, 2011, shall be vested upon~~
 682 ~~completion of 8 years of creditable service.~~

683 (55) "Benefit" means any ~~pension~~ payment, lump-sum or
 684 periodic, to a member, retiree, or beneficiary, based partially
 685 or entirely on employer contributions ~~or employee contributions,~~
 686 ~~if applicable.~~

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

689 Section 7. Paragraphs (b) and (c) of subsection (2) and
 690 subsection (3) of section 121.051, Florida Statutes, are amended
 691 to read:

692 121.051 Participation in the system.—

693 (2) OPTIONAL PARTICIPATION.—

694 (b)1. The governing body of any municipality, metropolitan
 695 planning organization, or special district in the state may
 696 elect to participate in the ~~Florida Retirement~~ System upon
 697 proper application to the administrator and may cover all or any
 698 of its units as approved by the Secretary of Health and Human
 699 Services and the administrator. The department shall adopt rules
 700 establishing provisions ~~procedures~~ for the submission of

701 documents necessary for such application. Prior to ~~Before~~ being
 702 approved for participation in the Florida Retirement System, the
 703 governing body of ~~a~~ any such municipality, metropolitan planning
 704 organization, or special district that has a local retirement
 705 system shall ~~must~~ submit to the administrator a certified
 706 financial statement showing the condition of the local
 707 retirement system as of a date within 3 months prior to ~~before~~
 708 the proposed effective date of membership in the Florida
 709 Retirement System. The statement must be certified by a
 710 recognized accounting firm that is independent of the local
 711 retirement system. All required documents necessary for
 712 extending Florida Retirement System coverage must be received by
 713 the department for consideration at least 15 days prior ~~before~~
 714 to the proposed effective date of coverage. If the municipality,
 715 metropolitan planning organization, or special district does not
 716 comply with this requirement, the department may require that
 717 the effective date of coverage be changed.

718 2. Any city ~~A municipality~~, metropolitan planning
 719 organization, or special district that has an existing
 720 retirement system covering the employees in the units that are
 721 to be brought under the Florida Retirement System may
 722 participate only after holding a referendum in which all
 723 employees in the affected units have the right to participate.
 724 Only those employees electing coverage under the Florida
 725 Retirement System by affirmative vote in said ~~the~~ referendum ~~are~~
 726 shall be eligible for coverage under this chapter, and those not
 727 participating or electing not to be covered by the Florida
 728 Retirement System shall remain in their present systems and ~~are~~

729 shall not be eligible for coverage under this chapter. After the
 730 referendum is held, all future employees shall be ~~are~~ compulsory
 731 members of the Florida Retirement System.

732 3. ~~At the time of joining the Florida Retirement System,~~
 733 the governing body of any city ~~a municipality~~, metropolitan
 734 planning organization, or special district complying with
 735 subparagraph 1. may elect to provide, or not provide, benefits
 736 based on past service of officers and employees as described in
 737 s. 121.081(1). However, if such employer elects to provide past
 738 service benefits, such benefits must be provided for all
 739 officers and employees of its covered group.

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

745 5. Subject to the conditions set forth in subparagraph 6.,
 746 the governing body of any ~~a~~ hospital licensed under chapter 395
 747 which is governed by the board of a special district as defined
 748 in s. 189.403(1) or by the board of trustees of a public health
 749 trust created under s. 154.07, hereinafter referred to as
 750 "hospital district," and which participates in the ~~Florida~~
 751 ~~Retirement~~ system, may elect to cease participation in the
 752 system with regard to future employees in accordance with the
 753 following procedure:

754 a. No more than 30 days and at least 7 days before
 755 adopting a resolution to partially withdraw from the Florida
 756 Retirement System and establish an alternative retirement plan

757 for future employees, a public hearing must be held on the
 758 proposed withdrawal and proposed alternative plan.

759 b. From 7 to 15 days before such hearing, notice of intent
 760 to withdraw, specifying the time and place of the hearing, must
 761 be provided in writing to employees of the hospital district
 762 proposing partial withdrawal and must be published in a
 763 newspaper of general circulation in the area affected, as
 764 provided by ss. 50.011-50.031. Proof of publication of such
 765 notice shall ~~must~~ be submitted to the Department of Management
 766 Services.

767 c. The governing body of any ~~a~~ hospital district seeking
 768 to partially withdraw from the system must, before such hearing,
 769 have an actuarial report prepared and certified by an enrolled
 770 actuary, as defined in s. 112.625(3), illustrating the cost to
 771 the hospital district of providing, through the retirement plan
 772 that the hospital district is to adopt, benefits for new
 773 employees comparable to those provided under the Florida
 774 Retirement system.

775 d. Upon meeting all applicable requirements of this
 776 subparagraph, and subject to the conditions set forth in
 777 subparagraph 6., partial withdrawal from the system and adoption
 778 of the alternative retirement plan may be accomplished by
 779 resolution duly adopted by the hospital district board. The
 780 hospital district board must provide written notice of such
 781 withdrawal to the division by mailing a copy of the resolution
 782 to the division, postmarked no later than ~~by~~ December 15, 1995.
 783 The withdrawal shall take effect January 1, 1996.

784 6. After ~~Following~~ the adoption of a resolution under sub-

HB 1309

2012

785 subparagraph 5.d., all employees of the withdrawing hospital
786 district who were participants in ~~members of~~ the Florida
787 Retirement System prior to ~~before~~ January 1, 1996, shall remain
788 as participants in ~~members of~~ the system for as long as they are
789 employees of the hospital district, and all rights, duties, and
790 obligations between the hospital district, the system, and the
791 employees shall remain in full force and effect. Any employee
792 who is hired or appointed on or after January 1, 1996, may not
793 participate in the Florida Retirement system, and the
794 withdrawing hospital district shall have ~~has~~ no obligation to
795 the system with respect to such employees.

796 (c) Employees of public community colleges or charter
797 technical career centers sponsored by public community colleges,
798 designated in s. 1000.21(3), who are members of the Regular
799 Class of the Florida Retirement System and who comply with the
800 criteria set forth in this paragraph and s. 1012.875 may, in
801 lieu of participating in the Florida Retirement System, elect to
802 withdraw from the system altogether and participate in the State
803 Community College System Optional Retirement Program provided by
804 the employing agency under s. 1012.875.

805 1.~~a.~~ Through June 30, 2001, the cost to the employer for
806 such annuity ~~benefits under the optional retirement program~~
807 equals the normal cost portion of the employer retirement
808 contribution which would be required if the employee were a
809 member of the ~~pension plan's~~ Regular Class defined benefit
810 program, plus the portion of the contribution rate required by
811 s. 112.363(8) which would otherwise be assigned to the Retiree
812 Health Insurance Subsidy Trust Fund.

HB 1309

2012

813 ~~b.~~ Effective July 1, 2001, ~~through June 30, 2011,~~ each
814 employer shall contribute on behalf of each ~~member of~~
815 participant in the optional program an amount equal to 10.43
816 percent of the participant's ~~employee's~~ gross monthly
817 compensation. The employer shall deduct an amount for the
818 administration of the program.

819 ~~e.~~ ~~Effective July 1, 2011,~~ each member shall contribute an
820 amount equal to the ~~employee contribution required under s.~~
821 ~~121.71(3).~~ The employer shall contribute on behalf of each
822 program member an amount equal to the difference between 10.43
823 percent of the ~~employee's~~ gross monthly compensation and the
824 ~~employee's~~ required contribution based on the ~~employee's~~ gross
825 ~~monthly compensation.~~

826 ~~d.~~ The employer shall contribute an additional amount to
827 the Florida Retirement System Trust Fund equal to the unfunded
828 actuarial accrued liability portion of the Regular Class
829 contribution rate.

830 2. The decision to participate in an ~~the~~ optional
831 retirement program is irrevocable as long as the employee holds
832 a position eligible for participation, except as provided in
833 subparagraph 3. Any service creditable under the Florida
834 Retirement System is retained after the member withdraws from
835 the system; however, additional service credit in the system may
836 not be earned while a member of the optional retirement program.

837 3. An employee who has elected to participate in the
838 optional retirement program shall have one opportunity, at the
839 employee's discretion, to transfer from the optional retirement
840 program to the defined benefit program ~~pension plan~~ of the

HB 1309

2012

841 Florida Retirement System or to the Public Employee Optional
842 Retirement Program investment plan established under part II of
843 ~~this chapter~~, subject to the terms of the applicable optional
844 retirement program contracts.

845 a. If the employee chooses to move to the Public Employee
846 Optional Retirement Program investment plan, any contributions,
847 interest, and earnings creditable to the employee under the
848 State Community College System optional retirement program are
849 retained by the employee in the State Community College System
850 optional retirement program, and the applicable provisions of s.
851 121.4501(4) govern the election.

852 b. If the employee chooses to move to the defined benefit
853 program pension plan of the Florida Retirement System, the
854 employee shall receive service credit equal to his or her years
855 of service under the State Community College System optional
856 retirement program.

857 (I) The cost for such credit is the amount representing
858 the present value of the employee's accumulated benefit
859 obligation for the affected period of service. The cost shall be
860 calculated as if the benefit commencement occurs on the first
861 date the employee becomes eligible for unreduced benefits, using
862 the discount rate and other relevant actuarial assumptions that
863 were used to value the Florida Retirement System ~~Pension~~ defined
864 benefit Plan liabilities in the most recent actuarial valuation.
865 The calculation must include any service already maintained
866 under the defined benefit pension plan in addition to the years
867 under the State Community College System optional retirement
868 program. The present value of any service already maintained

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

873 (II) The employee must transfer from his or her State
 874 Community College System optional retirement program account and
 875 from other employee moneys as necessary, a sum representing the
 876 present value of the employee's accumulated benefit obligation
 877 immediately after ~~following~~ the time of such movement,
 878 determined assuming that attained service equals the sum of
 879 service in the defined benefit program ~~pension plan~~ and service
 880 in the State Community College System optional retirement
 881 program.

882 4. Participation in the optional retirement program is
 883 limited to employees who satisfy the following eligibility
 884 criteria:

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

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

892 (I) Instructional; or

893 (II) Executive Management, Instructional Management, or
 894 Institutional Management, if a ~~and the~~ community college
 895 determines that recruiting to fill a vacancy in the position is
 896 to be conducted in the national or regional market, and the

897 duties and responsibilities of the position include the
 898 formulation, interpretation, or implementation of policies, or
 899 the performance of functions that are unique or specialized
 900 within higher education and that frequently support the mission
 901 of the community college.

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

905 5. Participants in ~~Members of~~ the program are subject to
 906 the same reemployment limitations, renewed membership
 907 provisions, and forfeiture provisions as are applicable to
 908 regular members of the Florida Retirement System under ss.
 909 121.091(9), 121.122, and 121.091(5), respectively. A participant
 910 ~~member~~ who receives a program distribution funded by employer
 911 ~~and required employee~~ contributions shall be ~~is~~ deemed to be
 912 retired from a state-administered retirement system if the
 913 participant ~~member~~ is subsequently employed with an employer
 914 that participates in the Florida Retirement System.

915 6. Eligible community college employees are compulsory
 916 members of the Florida Retirement System until, pursuant to s.
 917 1012.875, a written election to withdraw from the system and
 918 participate in the State Community College System optional
 919 retirement program is filed with the program administrator and
 920 received by the division.

921 a. A community college employee whose program eligibility
 922 results from initial employment must ~~shall~~ be enrolled in the
 923 State Community College System optional retirement program
 924 retroactive to the first day of eligible employment. The

HB 1309

2012

925 employer ~~and employee~~ retirement contributions paid through the
926 month of the employee plan change shall be transferred to the
927 community college to the employee's optional program account,
928 and, effective the first day of the next month, the employer
929 shall pay the applicable contributions based upon subparagraph
930 1.

931 b. A community college employee whose program eligibility
932 is due to the subsequent designation of the employee's position
933 as one of those specified in subparagraph 4., or due to the
934 employee's appointment, promotion, transfer, or reclassification
935 to a position specified in subparagraph 4., must be enrolled in
936 the program on the first day of the first full calendar month
937 that such change in status becomes effective. The employer ~~and~~
938 ~~employee~~ retirement contributions paid from the effective date
939 through the month of the employee plan change must be
940 transferred to the community college to the employee's optional
941 program account, and, effective the first day of the next month,
942 the employer shall pay the applicable contributions based upon
943 subparagraph 1.

944 7. Effective July 1, 2003, through December 31, 2008, any
945 participant member of the State Community College System
946 optional retirement program who has service credit in the
947 defined benefit pension plan of the Florida Retirement System
948 for the period between his or her first eligibility to transfer
949 from the defined benefit pension plan to the optional retirement
950 program and the actual date of transfer may, during employment,
951 transfer to the optional retirement program a sum representing
952 the present value of the accumulated benefit obligation under

HB 1309

2012

953 the defined benefit retirement program for the period of service
 954 credit. Upon transfer, all service credit previously earned
 955 under the defined benefit program of the Florida Retirement
 956 System ~~pension plan~~ during this period is nullified for purposes
 957 of entitlement to a future benefit under the defined benefit
 958 program of the Florida Retirement System ~~pension plan~~.

959 (3) SOCIAL SECURITY COVERAGE.—Social security coverage
 960 shall be provided for all officers and employees who become
 961 members under the provisions of subsection (1) or subsection
 962 (2). Any modification of the present agreement with the Social
 963 Security Administration, or referendum required under the Social
 964 Security Act, for the purpose of providing social security
 965 coverage for any member shall be requested by the state agency
 966 in compliance with the applicable provisions of the Social
 967 Security Act governing such coverage. However, retroactive
 968 social security coverage for service prior to ~~before~~ December 1,
 969 1970, with the employer shall ~~may~~ not be provided for any ~~a~~
 970 member who was not covered under the agreement as of November
 971 30, 1970. ~~The employer-paid employee contributions specified in~~
 972 ~~s. 121.71(3) are subject to taxes imposed under the Federal~~
 973 ~~Insurance Contributions Act, 26 U.S.C. ss. 3101-3128.~~

974 Section 8. Section 121.0515, Florida Statutes, is amended
 975 to read:

976 121.0515 Special Risk Membership Class.—

977 (1) LEGISLATIVE INTENT ESTABLISHMENT OF CLASS.—~~A separate~~
 978 In creating the Special Risk class of membership within the
 979 Florida Retirement System, it is the intent and purpose of the
 980 Legislature to be known as the "Special Risk Class," is

981 ~~established~~ to recognize that persons employed in certain
 982 categories of law enforcement, firefighting, criminal detention,
 983 and emergency medical care positions are required as one of the
 984 essential functions of their positions to perform work that is
 985 physically demanding or arduous, or work that requires
 986 extraordinary agility and mental acuity, and that such persons,
 987 because of diminishing physical and mental faculties, may find
 988 that they are not able, without risk to the health and safety of
 989 themselves, the public, or their coworkers, to continue
 990 performing such duties and thus enjoy the full career and
 991 retirement benefits enjoyed by persons employed in other
 992 positions ~~membership classes~~ and that, if they find it
 993 necessary, due to the physical and mental limitations of their
 994 age, to retire at an earlier age and usually with less service,
 995 they will suffer an economic deprivation therefrom. Therefore,
 996 as a means of recognizing ~~To address~~ the peculiar and special
 997 problems of this class of employees, it is the intent and
 998 purpose of the Legislature to establish a class of retirement
 999 membership ~~is established~~ that awards more retirement credit per
 1000 year of service than that awarded to other employees; however,
 1001 nothing contained herein shall require ineligibility for Special
 1002 Risk ~~Class~~ membership upon reaching age 55.

1003 ~~(2) MEMBERSHIP.~~

1004 ~~(a) Until October 1, 1978, "special risk member" means any~~
 1005 ~~officer or employee whose application is approved by the~~
 1006 ~~administrator and who receives salary payments for work~~
 1007 ~~performed as a peace officer; law enforcement officer; police~~
 1008 ~~officer; highway patrol officer; custodial employee at a~~

HB 1309

2012

1009 ~~correctional or detention facility; correctional agency employee~~
 1010 ~~whose duties and responsibilities involve direct contact with~~
 1011 ~~inmates, but excluding secretarial and clerical employees;~~
 1012 ~~firefighter; or an employee in any other job in the field of law~~
 1013 ~~enforcement or fire protection if the duties of such person are~~
 1014 ~~certified as hazardous by his or her employer.~~

1015 ~~(b) Effective October 1, 1978, through September 30, 1999,~~
 1016 ~~"special risk member" means a member of the Florida Retirement~~
 1017 ~~System who is designated as a special risk member by the~~
 1018 ~~division in accordance with this section. Such member must be~~
 1019 ~~employed as a law enforcement officer, a firefighter, or a~~
 1020 ~~correctional officer and must meet certain other special~~
 1021 ~~criteria as set forth in this section.~~

1022 ~~(c) Effective October 1, 1999, "special risk member" means~~
 1023 ~~a member of the Florida Retirement System who is designated as a~~
 1024 ~~special risk member by the division in accordance with this~~
 1025 ~~section. Such member must be employed as a law enforcement~~
 1026 ~~officer, a firefighter, a correctional officer, an emergency~~
 1027 ~~medical technician, or a paramedic and must meet certain other~~
 1028 ~~special criteria as set forth in this section.~~

1029 ~~(d) Effective January 1, 2001, "special risk member"~~
 1030 ~~includes:~~

1031 ~~1. Any member who is employed as a community based~~
 1032 ~~correctional probation officer and meets the special criteria~~
 1033 ~~set forth in paragraph (3) (c).~~

1034 ~~2. Any professional health care bargaining unit or non-~~
 1035 ~~unit member who is employed by the Department of Corrections or~~
 1036 ~~the Department of Children and Family Services and meets the~~

1037 ~~special criteria set forth in paragraph (3)(f).~~

1038 ~~(e) Effective July 1, 2001, "special risk member" includes~~
 1039 ~~any member who is employed as a youth custody officer by the~~
 1040 ~~Department of Juvenile Justice and meets the special criteria~~
 1041 ~~set forth in paragraph (3)(g).~~

1042 ~~(f) Effective October 1, 2005, through June 30, 2008, the~~
 1043 ~~member must be employed by a law enforcement agency or medical~~
 1044 ~~examiner's office in a forensic discipline and meet the special~~
 1045 ~~criteria set forth in paragraph (3)(h).~~

1046 ~~(g) Effective July 1, 2008, the member must be employed by~~
 1047 ~~the Department of Law Enforcement in the crime laboratory or by~~
 1048 ~~the Division of State Fire Marshal in the forensic laboratory~~
 1049 ~~and meet the special criteria set forth in paragraph (3)(i).~~

1050 ~~(h) Effective July 1, 2008, the member must be employed by~~
 1051 ~~a local government law enforcement agency or medical examiner's~~
 1052 ~~office and meet the special criteria set forth in paragraph~~
 1053 ~~(3)(j).~~

1054 ~~(i) Effective August 1, 2008, "special risk member"~~
 1055 ~~includes any member who meets the special criteria for continued~~
 1056 ~~membership set forth in paragraph (3)(k).~~

1057 (2) ~~(3)~~ CRITERIA.—A member, to be designated as a special
 1058 risk member, must meet the following criteria:

1059 (a) ~~Effective October 1, 1978,~~ The member must be employed
 1060 as a law enforcement officer and be certified, or required to be
 1061 certified, in compliance with s. 943.1395; however, sheriffs and
 1062 elected police chiefs shall be ~~are~~ excluded from meeting the
 1063 certification requirements of this paragraph. In addition, the
 1064 member's duties and responsibilities must include the pursuit,

1065 apprehension, and arrest of law violators or suspected law
 1066 violators; or ~~as of July 1, 1982,~~ the member must be an active
 1067 member of a bomb disposal unit whose primary responsibility is
 1068 the location, handling, and disposal of explosive devices; or
 1069 the member must be the supervisor or command officer of a member
 1070 or members who have such responsibilities; provided, however,
 1071 administrative support personnel, including, but not limited to,
 1072 those whose primary duties and responsibilities are in
 1073 accounting, purchasing, legal, and personnel, shall ~~are~~ be not
 1074 included;

1075 (b) ~~Effective October 1, 1978,~~ The member must be employed
 1076 as a firefighter and be certified, or required to be certified,
 1077 in compliance with s. 633.35 and be employed solely within the
 1078 fire department of a local government employer or an agency of
 1079 state government with firefighting responsibilities. In
 1080 addition, the member's duties and responsibilities must include
 1081 on-the-scene fighting of fires; ~~as of October 1, 2001,~~ fire
 1082 prevention, or firefighter training; ~~as of October 1, 2001,~~
 1083 direct supervision of firefighting units, fire prevention, or
 1084 firefighter training; or ~~as of July 1, 2001,~~ aerial firefighting
 1085 surveillance performed by fixed-wing aircraft pilots employed by
 1086 the Division of Forestry of the Department of Agriculture and
 1087 Consumer Services; or the member must be the supervisor or
 1088 command officer of a member or members who have such
 1089 responsibilities; provided, however, administrative support
 1090 personnel, including, but not limited to, those whose primary
 1091 duties and responsibilities are in accounting, purchasing,
 1092 legal, and personnel, shall ~~are~~ not be included and further

HB 1309

2012

1093 provided that all periods of creditable service in fire
 1094 prevention or firefighter training, or as the supervisor or
 1095 command officer of a member or members who have such
 1096 responsibilities, and for which the employer paid the special
 1097 risk contribution rate, shall be ~~are~~ included;

1098 (c) ~~Effective October 1, 1978,~~ The member must be employed
 1099 as a correctional officer and be certified, or required to be
 1100 certified, in compliance with s. 943.1395. In addition, the
 1101 member's primary duties and responsibilities must be the
 1102 custody, and physical restraint when necessary, of prisoners or
 1103 inmates within a prison, jail, or other criminal detention
 1104 facility, or while on work detail outside the facility, or while
 1105 being transported; ~~or as of July 1, 1984,~~ the member must be the
 1106 supervisor or command officer of a member or members who have
 1107 such responsibilities; provided, however, administrative
 1108 support personnel, including, but not limited to, those whose
 1109 primary duties and responsibilities are in accounting,
 1110 purchasing, legal, and personnel, shall ~~are~~ not be included;
 1111 however, wardens and assistant wardens, as defined by rule,
 1112 shall participate in the Special Risk Class ~~are included;~~

1113 (d) ~~Effective October 1, 1999,~~ The member must be employed
 1114 by a licensed Advance Life Support (ALS) or Basic Life Support
 1115 (BLS) employer as an emergency medical technician or a paramedic
 1116 and be certified in compliance with s. 401.27. In addition, the
 1117 member's primary duties and responsibilities must include on-
 1118 the-scene emergency medical care or ~~as of October 1, 2001,~~
 1119 direct supervision of emergency medical technicians or
 1120 paramedics, or the member must be the supervisor or command

HB 1309

2012

1121 officer of one or more members who have such responsibility.
1122 However, administrative support personnel, including, but not
1123 limited to, those whose primary responsibilities are in
1124 accounting, purchasing, legal, and personnel, shall ~~are~~ not be
1125 included;

1126 (e) ~~Effective January 1, 2001,~~ The member must be employed
1127 as a community-based correctional probation officer and be
1128 certified, or required to be certified, in compliance with s.
1129 943.1395. In addition, the member's primary duties and
1130 responsibilities must be the supervised custody, surveillance,
1131 control, investigation, and counseling of assigned inmates,
1132 probationers, parolees, or community controllees within the
1133 community; or the member must be the supervisor of a member or
1134 members who have such responsibilities. Administrative support
1135 personnel, including, but not limited to, those whose primary
1136 duties and responsibilities are in accounting, purchasing, legal
1137 services, and personnel management, shall ~~are~~ not be included;
1138 however, probation and parole circuit and deputy circuit
1139 administrators shall participate in the Special Risk Class ~~are~~
1140 included;

1141 (f) ~~Effective January 1, 2001,~~ The member must be employed
1142 in one of the following classes and must spend at least 75
1143 percent of his or her time performing duties which involve
1144 contact with patients or inmates in a correctional or forensic
1145 facility or institution:

- 1146 1. Dietitian (class codes 5203 and 5204);
- 1147 2. Public health nutrition consultant (class code 5224);
- 1148 3. Psychological specialist (class codes 5230 and 5231);

HB 1309

2012

- 1149 | 4. Psychologist (class code 5234);
- 1150 | 5. Senior psychologist (class codes 5237 and 5238);
- 1151 | 6. Regional mental health consultant (class code 5240);
- 1152 | 7. Psychological Services Director—DCF (class code 5242);
- 1153 | 8. Pharmacist (class codes 5245 and 5246);
- 1154 | 9. Senior pharmacist (class codes 5248 and 5249);
- 1155 | 10. Dentist (class code 5266);
- 1156 | 11. Senior dentist (class code 5269);
- 1157 | 12. Registered nurse (class codes 5290 and 5291);
- 1158 | 13. Senior registered nurse (class codes 5292 and 5293);
- 1159 | 14. Registered nurse specialist (class codes 5294 and
- 1160 | 5295);
- 1161 | 15. Clinical associate (class codes 5298 and 5299);
- 1162 | 16. Advanced registered nurse practitioner (class codes
- 1163 | 5297 and 5300);
- 1164 | 17. Advanced registered nurse practitioner specialist
- 1165 | (class codes 5304 and 5305);
- 1166 | 18. Registered nurse supervisor (class codes 5306 and
- 1167 | 5307);
- 1168 | 19. Senior registered nurse supervisor (class codes 5308
- 1169 | and 5309);
- 1170 | 20. Registered nursing consultant (class codes 5312 and
- 1171 | 5313);
- 1172 | 21. Quality management program supervisor (class code
- 1173 | 5314);
- 1174 | 22. Executive nursing director (class codes 5320 and
- 1175 | 5321);
- 1176 | 23. Speech and hearing therapist (class code 5406); or

HB 1309

2012

1177 24. Pharmacy manager (class code 5251);
 1178 (g) ~~Effective July 1, 2001,~~ The member must be employed as
 1179 a youth custody officer and be certified, or required to be
 1180 certified, in compliance with s. 943.1395. In addition, the
 1181 member's primary duties and responsibilities must be the
 1182 supervised custody, surveillance, control, investigation,
 1183 apprehension, arrest, and counseling of assigned juveniles
 1184 within the community;
 1185 (h) Effective October 1, 2005, through June 30, 2008, the
 1186 member must be employed by a law enforcement agency or medical
 1187 examiner's office in a forensic discipline recognized by the
 1188 International Association for Identification and must qualify
 1189 for active membership in the International Association for
 1190 Identification. The member's primary duties and responsibilities
 1191 must include the collection, examination, preservation,
 1192 documentation, preparation, or analysis of physical evidence or
 1193 testimony, or both, or the member must be the direct supervisor,
 1194 quality management supervisor, or command officer of one or more
 1195 individuals with such responsibility. Administrative support
 1196 personnel, including, but not limited to, those whose primary
 1197 responsibilities are clerical or in accounting, purchasing,
 1198 legal, and personnel, shall ~~are~~ not be included;
 1199 (i) Effective July 1, 2008, the member must be employed by
 1200 the Department of Law Enforcement in the crime laboratory or by
 1201 the Division of State Fire Marshal in the forensic laboratory in
 1202 one of the following classes:
 1203 1. Forensic technologist (class code 8459);
 1204 2. Crime laboratory technician (class code 8461);

HB 1309

2012

1205 3. Crime laboratory analyst (class code 8463);
 1206 4. Senior crime laboratory analyst (class code 8464);
 1207 5. Crime laboratory analyst supervisor (class code 8466);
 1208 6. Forensic chief (class code 9602); or
 1209 7. Forensic services quality manager (class code 9603);
 1210 (j) Effective July 1, 2008, the member must be employed by
 1211 a local government law enforcement agency or medical examiner's
 1212 office and must spend at least 65 percent of his or her time
 1213 performing duties that involve the collection, examination,
 1214 preservation, documentation, preparation, or analysis of human
 1215 tissues or fluids or physical evidence having potential
 1216 biological, chemical, or radiological hazard or contamination,
 1217 or use chemicals, processes, or materials that may have
 1218 carcinogenic or health-damaging properties in the analysis of
 1219 such evidence, or the member must be the direct supervisor of
 1220 one or more individuals having such responsibility. If a special
 1221 risk member changes to another position within the same agency,
 1222 he or she must submit a complete application as provided in
 1223 paragraph (3)~~(4)~~(a); or
 1224 (k) The member must have already qualified for and be
 1225 actively participating in special risk membership under
 1226 paragraph (a), paragraph (b), or paragraph (c), must have
 1227 suffered a qualifying injury as defined in this paragraph, must
 1228 not be receiving disability retirement benefits as provided in
 1229 s. 121.091(4), and must satisfy the requirements of this
 1230 paragraph.
 1231 1. The ability to qualify for the class of membership
 1232 defined in s. 121.021(15)(f) shall occur ~~paragraph (2)(f) occurs~~

HB 1309

2012

1233 when two licensed medical physicians, one of whom is a primary
1234 treating physician of the member, certify the existence of the
1235 physical injury and medical condition that constitute a
1236 qualifying injury as defined in this paragraph and that the
1237 member has reached maximum medical improvement after August 1,
1238 2008. The certifications from the licensed medical physicians
1239 must include, at a minimum, that the injury to the special risk
1240 member has resulted in a physical loss, or loss of use, of at
1241 least two of the following: left arm, right arm, left leg, or
1242 right leg; and:

1243 a. That this physical loss or loss of use is total and
1244 permanent, except in the event that the loss of use is due to a
1245 physical injury to the member's brain, in which event the loss
1246 of use is permanent with at least 75 percent loss of motor
1247 function with respect to each arm or leg affected.

1248 b. That this physical loss or loss of use renders the
1249 member physically unable to perform the essential job functions
1250 of his or her special risk position.

1251 c. That, notwithstanding this physical loss or loss of
1252 use, the individual is able to perform the essential job
1253 functions required by the member's new position, as provided in
1254 subparagraph 3.

1255 d. That use of artificial limbs is either not possible or
1256 does not alter the member's ability to perform the essential job
1257 functions of the member's position.

1258 e. That the physical loss or loss of use is a direct
1259 result of a physical injury and not a result of any mental,
1260 psychological, or emotional injury.

1261 2. For the purposes of this paragraph, "qualifying injury"
 1262 means an injury sustained in the line of duty, as certified by
 1263 the member's employing agency, by a special risk member that
 1264 does not result in total and permanent disability as defined in
 1265 s. 121.091(4)(b). An injury is a qualifying injury when ~~if~~ the
 1266 injury is a physical injury to the member's physical body
 1267 resulting in a physical loss, or loss of use, of at least two of
 1268 the following: left arm, right arm, left leg, or right leg.
 1269 Notwithstanding anything in ~~any other provision of~~ this section
 1270 to the contrary, an injury that would otherwise qualify as a
 1271 qualifying injury shall ~~is~~ not be considered a qualifying injury
 1272 if and when the member ceases employment with the employer for
 1273 whom he or she was providing special risk services on the date
 1274 the injury occurred.

1275 3. The new position, as described in sub-subparagraph
 1276 1.c., that is required for qualification as a special risk
 1277 member under this paragraph is not required to be a position
 1278 with essential job functions that entitle an individual to
 1279 special risk membership. Whether a new position as described in
 1280 sub-subparagraph 1.c. exists and is available to the special
 1281 risk member is a decision to be made solely by the employer in
 1282 accordance with its hiring practices and applicable law.

1283 4. This paragraph does not grant or create additional
 1284 rights for any individual to continued employment or to be hired
 1285 or rehired by his or her employer that are not already provided
 1286 within the Florida Statutes, the State Constitution, the
 1287 Americans with Disabilities Act, if applicable, or any other
 1288 applicable state or federal law.

1289 (3)~~(4)~~ PROCEDURE FOR DESIGNATING.—
 1290 (a) Any member of the Florida Retirement System employed
 1291 by a county, city ~~municipality~~, or special district who feels
 1292 that he or she ~~his or her position~~ meets the criteria set forth
 1293 in this section for membership in the Special Risk Class may
 1294 request that his or her employer submit an application to the
 1295 department requesting that the department designate him or her
 1296 as a Special Risk member. If the employer agrees that the member
 1297 meets the requirements for Special Risk ~~Class~~ membership, the
 1298 employer shall submit an application to the department on behalf
 1299 of the employee containing a certification that the member meets
 1300 the criteria for Special Risk ~~Class~~ membership set forth in this
 1301 section and such other supporting documentation as may be
 1302 required by administrative rule. The department shall, within 90
 1303 days, either designate or refuse to designate the member as a
 1304 special risk member. If the employer declines to submit the
 1305 member's application to the department or if the department does
 1306 not designate the member as a special risk member, the member or
 1307 the employer may appeal to the State Retirement Commission, as
 1308 provided in s. 121.23, for designation as a special risk member.
 1309 A member who receives a final affirmative ruling pursuant to
 1310 such appeal for Special Risk membership shall have Special Risk
 1311 ~~Class~~ membership retroactive to the date such member would have
 1312 had Special Risk ~~Class~~ membership had such membership been
 1313 approved by the employer and the department, as determined by
 1314 the department, and the employer contributions shall be paid in
 1315 full within 1 year after such final ruling.
 1316 (b)1. Applying the criteria set forth in this section, the

HB 1309

2012

1317 Department of Management Services shall specify which current
1318 and newly created classes of positions under the uniform
1319 classification plan established pursuant to chapter 110 entitle
1320 the incumbents of positions in those classes to membership in
1321 the Special Risk Class. Only employees employed in the classes
1322 so specified shall be special risk members.

1323 2. When ~~If~~ a class is not specified by the department as
1324 provided in subparagraph 1., the employing agency may petition
1325 the State Retirement Commission for approval in accordance with
1326 s. 121.23.

1327 ~~(4)-(5)~~ REMOVAL OF SPECIAL RISK ~~CLASS~~ MEMBERSHIP.—

1328 (a) Any member who is a special risk member on October 1,
1329 1978, and who fails to meet the criteria for Special Risk ~~Class~~
1330 membership established by this section shall have his or her
1331 special risk designation removed and thereafter shall be a
1332 regular member and shall earn only regular membership credit.
1333 The department shall have the authority to ~~may~~ review the
1334 special risk designation of members to determine whether or not
1335 those members continue to meet the criteria for Special Risk
1336 ~~Class~~ membership.

1337 (b) Any member who is a special risk member on July 1,
1338 2008, and who became eligible to participate under paragraph
1339 ~~(2)-(3)~~(h) but fails to meet the criteria for Special Risk ~~Class~~
1340 membership established by paragraph ~~(2)-(3)~~(i) or paragraph
1341 ~~(2)-(3)~~(j) shall have his or her special risk designation removed
1342 and thereafter shall be a Regular Class member and earn only
1343 Regular Class membership credit. The department may review the
1344 special risk designation of members to determine whether or not

HB 1309

2012

1345 those members continue to meet the criteria for Special Risk
 1346 ~~Class~~ membership.

1347 (5)~~(6)~~ CREDIT FOR PAST SERVICE.—A special risk member may
 1348 purchase retirement credit in the Special Risk Class based upon
 1349 past service, and may upgrade retirement credit for such past
 1350 service, to the extent of 2 percent of the member's average
 1351 monthly compensation as specified in s. 121.091(1)(a) for such
 1352 service as follows:

1353 (a) The member may purchase special risk credit for past
 1354 service with a city ~~municipality~~ or special district which has
 1355 elected to join the Florida Retirement System, or with a
 1356 participating agency to which a member's governmental unit was
 1357 transferred, merged, or consolidated as provided in s.
 1358 121.081(1)(f), if the member was employed with the city
 1359 ~~municipality~~ or special district at the time it commenced
 1360 participating in the Florida Retirement System or with the
 1361 governmental unit at the time of its transfer, merger, or
 1362 consolidation with the participating agency. The service must
 1363 satisfy the criteria set forth in subsection (2) ~~(3)~~ for Special
 1364 Risk ~~Class~~ membership as a law enforcement officer, firefighter,
 1365 or correctional officer; however, no ~~a~~ certificate or waiver of
 1366 certificate of compliance with s. 943.1395 or s. 633.35 shall be
 1367 ~~is not~~ required for such service.

1368 (b) Contributions for upgrading the additional special
 1369 risk credit pursuant to this subsection shall ~~must~~ be equal to
 1370 the difference in the ~~employer and, if applicable, employee~~
 1371 contributions paid and the special risk percentage rate of gross
 1372 salary in effect at the time of purchase for the period being

HB 1309

2012

1373 | claimed, plus interest thereon at the rate of 4 percent a year
 1374 | compounded annually from the date of such service until July 1,
 1375 | 1975, and 6.5 percent a year thereafter until the date of
 1376 | payment. This past service may be purchased by the member or by
 1377 | the employer on behalf of the member.

1378 | (6)~~(7)~~ CREDIT FOR PRIOR SERVICE.—A special risk member who
 1379 | has creditable service with an employer under chapter 122 or
 1380 | chapter 321, or was employed as a correctional counselor with
 1381 | the Department of Corrections between December 1, 1970, and
 1382 | September 30, 1979, in a position which ~~that~~ satisfies the
 1383 | criteria provided for in subsection (2) ~~(3)~~ for Special Risk
 1384 | ~~Class~~ membership except the requirement for a certificate or
 1385 | waiver of certificate, shall have those years of service counted
 1386 | towards the attainment of the normal retirement date as a
 1387 | special risk member under this chapter. The percentage value of
 1388 | each such year of creditable service under chapter 122, chapter
 1389 | 321, or as a correctional counselor shall ~~may~~ not change as a
 1390 | result of the application of this subsection. A special risk
 1391 | member who has taken a refund of contributions for such
 1392 | creditable service under chapter 122 or chapter 321 and has
 1393 | reclaimed it as prior service credit under this chapter shall be
 1394 | permitted to have such creditable service counted towards the
 1395 | attainment of the normal retirement date for the Special Risk
 1396 | Class of membership under this chapter.

1397 | (7)~~(8)~~ RETENTION OF SPECIAL RISK NORMAL RETIREMENT DATE
 1398 | ~~SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS.—~~

1399 | (a) A special risk member who is moved or reassigned to a
 1400 | nonspecial risk law enforcement, firefighting, correctional, or

HB 1309

2012

1401 emergency medical care administrative support position with the
 1402 same agency, or who is subsequently employed in such a position
 1403 with ~~within~~ any law enforcement, firefighting, correctional, or
 1404 emergency medical care agency under the Florida Retirement
 1405 System, shall participate in the Special Risk Administrative
 1406 Support Class and shall earn credit for such service at the same
 1407 percentage rate as that earned by a regular member.

1408 Notwithstanding the provisions of subsection (4) ~~(5)~~, service in
 1409 such an administrative support position shall, for purposes of
 1410 s. 121.091, apply ~~applies~~ toward satisfaction of the special
 1411 risk normal retirement date, as defined in s. 121.021 (29) (b)
 1412 provided that, if, while in such position, the member remains
 1413 certified as a law enforcement officer, firefighter,
 1414 correctional officer, emergency medical technician, or
 1415 paramedic; remains subject to reassignment at any time to a
 1416 position qualifying for special risk membership; and completes
 1417 an aggregate of 6 or more ~~the~~ years of service as a designated
 1418 special risk member prior to ~~before~~ retirement ~~which is equal to~~
 1419 ~~or greater than the years of service required to be vested.~~

1420 (b) Upon application by a member, the provisions of this
 1421 subsection shall apply, with respect to such member,
 1422 retroactively to October 1, 1978, provided that ~~if~~ the member
 1423 was removed from the Special Risk Class effective October 1,
 1424 1978, due to a change in special risk criteria as a result of
 1425 the enactment of chapter 78-308, Laws of Florida, or was
 1426 reassigned or employed for training or career development or to
 1427 fill a critical agency need.

1428 (c) The department shall adopt such rules as are required

HB 1309

2012

1429 to administer this subsection.

1430 (d) Notwithstanding any ~~other~~ provision of this subsection
 1431 to the contrary, this subsection does not apply to any special
 1432 risk member who qualifies for continued membership pursuant to
 1433 the provisions of paragraph (2)~~(3)~~(k).

1434 (8)~~(9)~~ RESTORATION OF SPECIAL RISK CREDIT FOR SPECIFIED
 1435 PERIOD OF EMPLOYMENT.—A special risk member who was removed from
 1436 the Special Risk Class effective October 1978, for the sole
 1437 reason that he or she did not possess the required certificate
 1438 or temporary waiver of certificate, and who obtained
 1439 certification and was approved for Special Risk ~~Class~~ membership
 1440 on or before June 30, 1982, shall be permitted to ~~may~~ have
 1441 special risk credit restored for that period upon:

1442 (a) Certification by his or her employer that all
 1443 requirements for Special Risk ~~Class~~ membership except the
 1444 requirement for certification or temporary waiver of
 1445 certification were met; and

1446 (b) Payment of contributions equal to the difference in
 1447 the contributions that were paid during the period and the
 1448 contributions required for special risk members during that
 1449 period, plus 6.5 percent interest thereon, compounded each June
 1450 30 from date of service until date of payment.

1451
 1452 This credit may be purchased by the member or by the employer on
 1453 behalf of the member.

1454 (9)~~(10)~~ CREDIT FOR UPGRADED SERVICE.—

1455 (a) Any member of the Special Risk Class who has earned
 1456 creditable service ~~through September 30, 1999,~~ in another

1457 membership class of the Florida Retirement System as an
 1458 emergency medical technician or paramedic, which service is
 1459 within the purview of the Special Risk Class, may purchase
 1460 additional retirement credit to upgrade such service to Special
 1461 Risk Class service, to the extent of the percentages of the
 1462 member's average final compensation provided in s.

1463 121.091(1)(a)2. Contributions for upgrading such service to
 1464 Special Risk Class credit under this subsection shall ~~must~~ be
 1465 equal to the difference in the contributions paid and the
 1466 Special Risk Class contribution rate as a percentage of gross
 1467 salary in effect for the period being claimed, plus interest
 1468 thereon at the rate of 6.5 percent a year, compounded annually
 1469 until the date of payment. This service credit may be purchased
 1470 by the employer on behalf of the member.

1471 (b) Any member of the Special Risk Class who has earned
 1472 creditable service ~~through September 30, 2001,~~ in another
 1473 membership class of the Florida Retirement System whose
 1474 responsibilities included fire prevention or firefighter
 1475 training, which service is within the purview of the Special
 1476 Risk Class, may purchase additional retirement credit to upgrade
 1477 such service to Special Risk Class service, to the extent of the
 1478 percentages of the member's average final compensation provided
 1479 in s. 121.091(1)(a)2. Contributions for upgrading such service
 1480 to Special Risk Class credit under this subsection shall ~~must~~ be
 1481 equal to the difference in the contributions paid and the
 1482 Special Risk Class contribution rate as a percentage of gross
 1483 salary in effect for the period being claimed, plus interest
 1484 thereon at the rate of 6.5 percent a year, compounded annually

HB 1309

2012

1485 until the date of payment. This service credit may be purchased
1486 by the employer on behalf of the member.

1487 (c) Any member of the Special Risk Class who has earned
1488 creditable service ~~through June 30, 2008,~~ in another membership
1489 class of the Florida Retirement System in a position with the
1490 Department of Law Enforcement or the Division of State Fire
1491 Marshal and became covered by the Special Risk Class as
1492 described in paragraph (2) ~~(3)~~ (i), or with a local government law
1493 enforcement agency or medical examiner's office and became
1494 covered by the Special Risk Class as described in paragraph
1495 (2) ~~(3)~~ (j), which service is within the purview of the Special
1496 Risk Class, and is employed in such position on or after July 1,
1497 2008, may purchase additional retirement credit to upgrade such
1498 service to Special Risk Class service, to the extent of the
1499 percentages of the member's average final compensation provided
1500 in s. 121.091(1)(a)2. The cost for such credit shall ~~must~~ be an
1501 amount representing the actuarial accrued liability for the
1502 difference in accrual value during the affected period of
1503 service. The cost shall be calculated using the discount rate
1504 and other relevant actuarial assumptions that were used to value
1505 the Florida Retirement System Defined Benefit Pension ~~Pension~~ Plan
1506 liabilities in the most recent actuarial valuation. The division
1507 shall ensure that the transfer sum is prepared using a formula
1508 and methodology certified by an enrolled actuary. The cost must
1509 be paid immediately upon notification by the division. The local
1510 government employer may purchase the upgraded service credit on
1511 behalf of the member if the member has been employed by that
1512 employer for at least 3 years.

Page 54 of 210

CODING: Words stricken are deletions; words underlined are additions.

hb1309-00

HB 1309

2012

1513 Section 9. Paragraphs (a) and (d) of subsection (4),
 1514 paragraphs (b), (c), and (d) of subsection (7), and subsections
 1515 (8) and (10) of section 121.052, Florida Statutes, are amended
 1516 to read:

1517 121.052 Membership class of elected officers.—

1518 (4) PARTICIPATION BY ELECTED OFFICERS SERVING A SHORTENED
 1519 TERM DUE TO APPORTIONMENT, FEDERAL INTERVENTION, ETC.—

1520 (a) Any ~~A~~ duly elected officer whose term of office was
 1521 shortened by legislative or judicial apportionment pursuant to
 1522 the provisions of s. 16, Art. III of the State Constitution may,
 1523 after the term of office to which he or she was elected is
 1524 completed, pay into the ~~Florida Retirement~~ System Trust Fund the
 1525 amount of contributions that would have been made by ~~the officer~~
 1526 ~~or~~ the officer's employer on his or her behalf, plus 4 percent
 1527 interest compounded annually from the date he or she left office
 1528 until July 1, 1975, and 6.5 percent interest compounded annually
 1529 thereafter, and may receive service credit for the length of
 1530 time the officer would have served if such term had not been
 1531 shortened by apportionment.

1532 (d)1. Any justice or judge, or any retired justice or
 1533 judge who retired before July 1, 1993, who has attained the age
 1534 of 70 years and who is prevented under s. 8, Art. V of the State
 1535 Constitution from completing his or her term of office because
 1536 of age may elect to purchase credit for all or a portion of the
 1537 months he or she would have served during the remainder of the
 1538 term of office but, ~~however~~, he or she may claim those months
 1539 only after the date the service would have occurred. The justice
 1540 or judge must pay into the ~~Florida Retirement~~ System Trust Fund

HB 1309

2012

1541 the amount of contributions that would have been made by the
 1542 employer on his or her behalf for the period of time being
 1543 claimed, plus 6.5 percent interest thereon compounded each June
 1544 30 from the date he or she left office, in order to receive
 1545 service credit in this class for the period of time being
 1546 claimed. After the date the service would have occurred, and
 1547 upon payment of the required contributions, the retirement
 1548 benefit of a retired justice or judge will ~~shall~~ be adjusted
 1549 prospectively to include this ~~the~~ additional creditable service;
 1550 however, such adjustment may be made only once.

1551 2. Any justice or judge who does not seek election to a
 1552 subsequent term of office because he or she would be prevented
 1553 under s. 8, Art. V of the State Constitution from completing
 1554 such term of office upon attaining the age of 70 years may elect
 1555 to purchase service credit for service as a temporary judge as
 1556 assigned by the court if the temporary assignment follows
 1557 immediately ~~follows~~ the last full term of office served and the
 1558 purchase is limited to the number of months of service needed to
 1559 vest retirement benefits. To receive retirement credit for such
 1560 temporary service beyond termination, the justice or judge must
 1561 pay into the ~~Florida Retirement~~ System Trust Fund the amount of
 1562 contributions that would have been made by the ~~justice or judge~~
 1563 ~~and the~~ employer on his or her behalf had he or she continued in
 1564 office for the period of time being claimed, plus 6.5 percent
 1565 interest thereon compounded each June 30 from the date he or she
 1566 left office.

1567 (7) CONTRIBUTIONS.—

1568 (b) The employer paying the salary of a member of the

HB 1309

2012

1569 Elected Officers' Class shall contribute an amount as specified
1570 in this subsection or s. 121.71, as appropriate, which shall
1571 constitute the entire employer retirement contribution with
1572 respect to such member. The employer shall also withhold one-
1573 half of the entire contribution of the member required for
1574 social security coverage. ~~Effective July 1, 2011, each member of~~
1575 ~~the Elected Officers' Class shall pay employee contributions as~~
1576 ~~specified in s. 121.71.~~

1577 ~~(c) If a member of the Elected Officers' Class ceases to~~
1578 ~~fill an office covered by this class for 3 calendar months for~~
1579 ~~any reason other than retirement and has not been employed in~~
1580 ~~any capacity with any participating employer for 3 calendar~~
1581 ~~months, the member may receive a refund of all contributions he~~
1582 ~~or she has made to the pension plan, subject to the restrictions~~
1583 ~~otherwise provided in this chapter. Partial refunds are not~~
1584 ~~permitted. The refund shall not include any interest earnings on~~
1585 ~~the contributions for a member of the pension plan. Employer~~
1586 ~~contributions made on behalf of the member are not refundable. A~~
1587 ~~member may not receive a refund of employee contributions if a~~
1588 ~~pending or an approved qualified domestic relations order is~~
1589 ~~filed against the member's retirement account. By obtaining a~~
1590 ~~refund of contributions, a member waives all rights under the~~
1591 ~~Florida Retirement System and the health insurance subsidy~~
1592 ~~provided under s. 112.363 to the service credit represented by~~
1593 ~~the refunded contributions, except the right to purchase his or~~
1594 ~~her prior service credit in accordance with s. 121.081(2).~~

1595 (c) ~~(d)~~ The following table states the required employer
1596 contribution on behalf of each member of the Elected Officers'

HB 1309

2012

1597 Class in terms of a percentage of the member's gross
 1598 compensation. Such contribution constitutes the entire health
 1599 insurance subsidy contribution with respect to each such member.
 1600 A change in the contribution rate is effective with the first
 1601 salary paid on or after the beginning date of the change. The
 1602 retiree health insurance subsidy contribution rate is as
 1603 follows:

1604	Dates of Contribution	Contribution
1605	Rate Changes	Rate
1606	October 1, 1987, through December 31, 1988	0.24%
1607	January 1, 1989, through December 31, 1993	0.48%
1608	January 1, 1994, through December 31, 1994	0.56%
1609	January 1, 1995, through June 30, 1998	0.66%
1610	July 1, 1998, through June 30, 2001	0.94%
1611	Effective July 1, 2001	1.11%

1612 Such contributions and accompanying payroll data are due and
 1613 payable no later than the 5th working day of the month
 1614 immediately following the month during which the payroll period
 1615 ended and shall be deposited by the administrator in the Retiree
 1616 Health Insurance Subsidy Trust Fund.

1617 (8) NORMAL RETIREMENT DATE; VESTING REQUIREMENT.—A member
 1618 of the Elected Officers' Class shall have the same normal
 1619 retirement date ~~and vesting requirement~~, as ~~those terms are~~
 1620 defined in s. 121.021(29) ~~and (45)~~, for a member of the regular
 1621 class of the Florida Retirement System. Any public service
 1622 commissioner who was removed from the Elected State Officers'
 1623 Class on July 1, 1979, after attaining at least 8 years of
 1624 creditable service in that class shall be ~~is~~ considered to have
 1625 reached the normal retirement date upon attaining age 62 as
 1626 required in s. 121.021(29) (a).

1627 (10) ACCRUED SERVICE VALUE.—A member of the Elected
 1628 Officers' Class who is a Supreme Court justice, district court
 1629 of appeal judge, circuit judge, or county court judge shall
 1630 receive judicial retirement credit of 3 1/3 percent of average
 1631 final compensation, and all other members shall receive elected
 1632 officer retirement credit ~~accrual value~~ of 3 percent of average
 1633 final compensation, for each year of creditable service in such
 1634 class.

1635 Section 10. Paragraph (a) of subsection (7) of section
 1636 121.053, Florida Statutes, is amended to read:

1637 121.053 Participation in the Elected Officers' Class for
 1638 retired members.—

1639 (7) A member who is elected or appointed to an elective
 1640 office and who is participating in the Deferred Retirement
 1641 Option Program is not subject to termination as defined in s.
 1642 121.021, or reemployment limitations as provided in s.
 1643 121.091(9), until the end of his or her current term of office
 1644 or, if the officer is consecutively elected or reelected to an

1645 elective office eligible for coverage under the Florida
 1646 Retirement System, until he or she no longer holds an elective
 1647 office, as follows:

1648 (a) At the end of the 60-month DROP period:

1649 1. The officer's DROP account may not accrue additional
 1650 monthly benefits, but does continue to earn interest as provided
 1651 in s. 121.091(13). However, an officer whose DROP participation
 1652 begins on or after July 1, 2010, may not continue to earn such
 1653 interest.

1654 2. Retirement contributions, ~~except for unfunded actuarial~~
 1655 ~~liability and health insurance subsidy contributions required in~~
 1656 ~~ss. 121.71(5) and 121.76,~~ are not required of the employer of
 1657 the elected officer, and additional retirement credit may not be
 1658 earned under the Florida Retirement System.

1659 Section 11. Paragraphs (b) and (j) of subsection (1),
 1660 paragraphs (b), (c), and (d) of subsection (3), paragraph (b) of
 1661 subsection (4), and paragraphs (c), (d), and (e) of subsection
 1662 (6) of section 121.055, Florida Statutes, are amended to read:

1663 121.055 Senior Management Service Class.—There is hereby
 1664 established a separate class of membership within the Florida
 1665 Retirement System to be known as the "Senior Management Service
 1666 Class," which shall become effective February 1, 1987.

1667 (1)

1668 (b)1. Except as provided in subparagraph 2., effective
 1669 January 1, 1990, participation in the Senior Management Service
 1670 Class shall be ~~is~~ compulsory for the president of each community
 1671 college, the manager of each participating city ~~municipality~~ or
 1672 county, and all appointed district school superintendents.

HB 1309

2012

1673 Effective January 1, 1994, additional positions may be
 1674 designated for inclusion in the Senior Management Service Class
 1675 of the Florida Retirement System, provided that ~~if~~:

1676 a. Positions to be included in the class shall be ~~are~~
 1677 designated by the local agency employer. Notice of intent to
 1678 designate positions for inclusion in the class shall ~~must~~ be
 1679 published once a week for 2 consecutive weeks in a newspaper of
 1680 general circulation published in the county or counties
 1681 affected, as provided in chapter 50.

1682 b. Up to 10 nonelective full-time positions may be
 1683 designated for each local agency employer reporting to the
 1684 Department of Management Services; for local agencies with 100
 1685 or more regularly established positions, additional nonelective
 1686 full-time positions may be designated, not to exceed 1 percent
 1687 of the regularly established positions within the agency.

1688 c. Each position added to the class must be a managerial
 1689 or policymaking position filled by an employee who is not
 1690 subject to continuing contract and serves at the pleasure of the
 1691 local agency employer without civil service protection, and who:

- 1692 (I) Heads an organizational unit; or
- 1693 (II) Has responsibility to effect or recommend personnel,
 1694 budget, expenditure, or policy decisions in his or her areas of
 1695 responsibility.

1696 2. In lieu of participation in the Senior Management
 1697 Service Class, members of the Senior Management Service Class~~7~~
 1698 pursuant to the provisions of subparagraph 1.~~7~~ may withdraw from
 1699 the Florida Retirement System altogether. The decision to
 1700 withdraw from the Florida Retirement system shall be ~~is~~

1701 irrevocable for as long as the employee holds such a ~~the~~
 1702 position. Any service creditable under the Senior Management
 1703 Service Class shall be retained after the member withdraws from
 1704 the Florida Retirement System; however, additional service
 1705 credit in the Senior Management Service Class shall ~~may~~ not be
 1706 earned after such withdrawal. Such members shall ~~are~~ not be
 1707 eligible to participate in the Senior Management Service
 1708 Optional Annuity Program.

1709 3. Effective January 1, 2006, through June 30, 2006, an
 1710 employee who has withdrawn from the Florida Retirement System
 1711 under subparagraph 2. has one opportunity to elect to
 1712 participate in either the defined benefit program ~~pension plan~~
 1713 or the Public Employee Optional Retirement Program of the
 1714 Florida Retirement System ~~investment plan~~.

1715 a. If the employee elects to participate in the Public
 1716 Employee Optional Retirement Program ~~investment plan~~, membership
 1717 shall be prospective, and the applicable provisions of s.
 1718 121.4501(4) shall govern the election.

1719 b. If the employee elects to participate in the defined
 1720 benefit program of the Florida Retirement System ~~pension plan~~,
 1721 the employee shall, upon payment to the system trust fund of the
 1722 amount calculated under sub-sub-subparagraph (I), receive
 1723 service credit for prior service based upon the time during
 1724 which the employee had withdrawn from the system.

1725 (I) The cost for such credit shall be an amount
 1726 representing the actuarial accrued liability for the affected
 1727 period of service. The cost shall be calculated using the
 1728 discount rate and other relevant actuarial assumptions that were

HB 1309

2012

1729 used to value the Florida Retirement System defined benefit
1730 ~~pension~~ plan liabilities in the most recent actuarial valuation.
1731 The calculation shall ~~must~~ include any service already
1732 maintained under the defined benefit ~~pension~~ plan in addition to
1733 the period of withdrawal. The actuarial accrued liability
1734 attributable to any service already maintained under the defined
1735 benefit ~~pension~~ plan shall be applied as a credit to the total
1736 cost resulting from the calculation. The division shall ~~must~~
1737 ensure that the transfer sum is prepared using a formula and
1738 methodology certified by an actuary.

1739 (II) The employee must transfer a sum representing the net
1740 cost owed for the actuarial accrued liability in sub-sub-
1741 subparagraph (I) immediately following the time of such
1742 movement, determined assuming that attained service equals the
1743 sum of service in the defined benefit program ~~pension plan~~ and
1744 the period of withdrawal.

1745 (j) Except as may otherwise be provided, any ~~a~~ member of
1746 the Senior Management Service Class may purchase additional
1747 retirement credit in such class for creditable service within
1748 the purview of the Senior Management Service Class retroactive
1749 to February 1, 1987, and may upgrade retirement credit for such
1750 service, to the extent of 2 percent of the member's average
1751 monthly compensation as specified in paragraph (4) (d) for such
1752 service. Contributions for upgrading the additional Senior
1753 Management Service credit pursuant to this paragraph shall ~~must~~
1754 be equal to the difference in the ~~employer and, if applicable,~~
1755 ~~employee~~ contributions paid and the Senior Management Service
1756 Class contribution rate as a percentage of gross salary in

HB 1309

2012

1757 effect for the period being claimed, plus interest thereon at
1758 the rate of 6.5 percent a year, compounded annually until the
1759 date of payment. This service credit may be purchased by the
1760 employer on behalf of the member.

1761 (3)

1762 (b) The employer paying the salary of a member of the
1763 Senior Management Service Class shall contribute an amount as
1764 specified in this section or s. 121.71, as appropriate, which
1765 shall constitute the entire employer retirement contribution
1766 with respect to such member. The employer shall also withhold
1767 one-half of the entire contribution of the member required for
1768 social security coverage. ~~Effective July 1, 2011, each member~~
1769 ~~shall pay employee contributions as specified in s. 121.71.~~

1770 ~~(c) Upon termination of employment from all participating~~
1771 ~~employers for 3 calendar months for any reason other than~~
1772 ~~retirement pursuant to s. 121.021(39)(c), a member may receive a~~
1773 ~~refund of all contributions he or she has made to the pension~~
1774 ~~plan, subject to the restrictions otherwise provided in this~~
1775 ~~chapter. Partial refunds are not permitted. The refund shall not~~
1776 ~~include any interest earnings on the contributions for a member~~
1777 ~~of the pension plan. Employer contributions made on behalf of~~
1778 ~~the member are not refundable. A member may not receive a refund~~
1779 ~~of employee contributions if a pending or an approved qualified~~
1780 ~~domestic relations order is filed against the member's~~
1781 ~~retirement account. By obtaining a refund of contributions, a~~
1782 ~~member waives all rights under the Florida Retirement System and~~
1783 ~~the health insurance subsidy provided under s. 112.363 to the~~
1784 ~~service credit represented by the refunded contributions, except~~

HB 1309

2012

1785 ~~the right to purchase his or her prior service credit in~~
 1786 ~~accordance with s. 121.081(2).~~

1787 (c)~~(d)~~ The following table states the required employer
 1788 contribution on behalf of each member of the Senior Management
 1789 Service Class in terms of a percentage of the member's gross
 1790 compensation. Such contribution constitutes the entire health
 1791 insurance subsidy contribution with respect to each such member.
 1792 A change in the contribution rate is effective with the first
 1793 salary paid on or after the beginning date of the change. The
 1794 retiree health insurance subsidy contribution rate is as
 1795 follows:

Dates of Contribution Rate Changes	Contribution Rate
October 1, 1987, through December 31, 1988	0.24%
January 1, 1989, through December 31, 1993	0.48%
January 1, 1994, through December 31, 1994	0.56%
January 1, 1995, through June 30, 1998	0.66%
July 1, 1998, through June 30, 2001	0.94%

HB 1309

2012

Effective July 1, 2001 1.11%

1804
1805
1806
1807
1808
1809
1810
1811
1812
1813
1814
1815
1816
1817
1818
1819
1820
1821
1822
1823
1824
1825
1826
1827
1828
1829
1830

Such contributions and accompanying payroll data are due and payable no later than the 5th working day of the month immediately after ~~following~~ the month during which the payroll period ended and shall be deposited by the administrator in the Retiree Health Insurance Subsidy Trust Fund.

(4)

(b) Service in an eligible position prior to ~~before~~ February 1, 1987, or after January 31, 1987, shall satisfy the requirement of attaining the normal retirement date as defined in s. 121.021(29) for a Senior Management Service Class member, provided if the employee is a member of the Senior Management Service Class after January 31, 1987. A member of this class who fails to complete 6 ~~the~~ years of creditable service ~~required for vesting~~ in an eligible position shall be required to ~~must~~ satisfy the requirements for the normal retirement date for a regular member as provided in s. 121.021(29) ~~and vesting as provided in s. 121.021(45).~~

(6)

(c) *Participation.*—

1. An eligible employee who is employed on or before February 1, 1987, may elect to participate in the optional annuity program in lieu of participation ~~participating~~ in the Senior Management Service Class. Such election must be made in writing and filed with the department and the personnel officer of the employer on or before May 1, 1987. An eligible employee who is employed on or before February 1, 1987, and who fails to

1831 make an election to participate in the optional annuity program
 1832 by May 1, 1987, shall be deemed to have elected membership in
 1833 the Senior Management Service Class.

1834 2. Except as provided in subparagraph 6., an employee who
 1835 becomes eligible to participate in the optional annuity program
 1836 by reason of initial employment commencing after February 1,
 1837 1987, may, within 90 days after the date of commencing
 1838 employment, elect to participate in the optional annuity
 1839 program. Such election must be made in writing and filed with
 1840 the personnel officer of the employer. An eligible employee who
 1841 does not within 90 days after commencing employment elect to
 1842 participate in the optional annuity program shall be deemed to
 1843 have elected membership in the Senior Management Service Class.

1844 3. A person who is appointed to a position in the Senior
 1845 Management Service Class and who is a member of an existing
 1846 retirement system or the Special Risk or Special Risk
 1847 Administrative Support Classes of the Florida Retirement System
 1848 may elect to remain in such system or class in lieu of
 1849 participation ~~participating~~ in the Senior Management Service
 1850 Class or optional annuity program. Such election must be made in
 1851 writing and filed with the department and the personnel officer
 1852 of the employer within 90 days of ~~after~~ such appointment. Any ~~An~~
 1853 eligible employee who fails to make an election to participate
 1854 in the existing system, the Special Risk Class of the Florida
 1855 Retirement System, the Special Risk Administrative Support Class
 1856 of the Florida Retirement System, or the optional annuity
 1857 program shall be deemed to have elected membership in the Senior
 1858 Management Service Class.

HB 1309

2012

1859 4. Except as provided in subparagraph 5., an employee's
 1860 election to participate in the optional annuity program is
 1861 irrevocable if the employee continues to be employed in an
 1862 eligible position and continues to meet the eligibility
 1863 requirements set forth in this paragraph.

1864 5. Effective from July 1, 2002, through September 30,
 1865 2002, any ~~an~~ active employee in a regularly established position
 1866 who has elected to participate in the Senior Management Service
 1867 Optional Annuity Program has one opportunity to choose to move
 1868 from the Senior Management Service Optional Annuity Program to
 1869 the Florida Retirement System defined benefit program ~~System~~
 1870 ~~Pension Plan~~.

1871 a. The election must be made in writing and must be filed
 1872 with the department and the personnel officer of the employer
 1873 before October 1, 2002, or, in the case of an active employee
 1874 who is on a leave of absence on July 1, 2002, within 90 days
 1875 after the conclusion of the leave of absence. This election is
 1876 irrevocable.

1877 b. The employee shall receive service credit under the
 1878 defined benefit program of the Florida Retirement System ~~pension~~
 1879 ~~plan~~ equal to his or her years of service under the Senior
 1880 Management Service Optional Annuity Program. The cost for such
 1881 credit is the amount representing the present value of that
 1882 employee's accumulated benefit obligation for the affected
 1883 period of service.

1884 c. The employee must transfer the total accumulated
 1885 employer contributions and earnings on deposit in his or her
 1886 Senior Management Service Optional Annuity Program account. If

1887 the transferred amount is not sufficient to pay the amount due,
 1888 the employee must pay a sum representing the remainder of the
 1889 amount due. The employee may not retain any employer
 1890 contributions or earnings thereon from the Senior Management
 1891 Service Optional Annuity Program account.

1892 6. A retiree of a state-administered retirement system who
 1893 is initially reemployed on or after July 1, 2010, may not renew
 1894 membership in the Senior Management Service Optional Annuity
 1895 Program.

1896 (d) *Contributions.*—

1897 1.~~a.~~ Through June 30, 2001, each employer shall contribute
 1898 on behalf of each participant in ~~member of~~ the Senior Management
 1899 Service Optional Annuity Program an amount equal to the normal
 1900 cost portion of the employer retirement contribution which would
 1901 be required if the participant ~~member~~ were a Senior Management
 1902 Service Class member of the Florida Retirement System Defined
 1903 Benefit Program ~~Pension Plan~~, plus the portion of the
 1904 contribution rate required in s. 112.363(8) that would otherwise
 1905 be assigned to the Retiree Health Insurance Subsidy Trust Fund.

1906 ~~b.~~ Effective July 1, 2001, ~~through June 30, 2011,~~ each
 1907 employer shall contribute on behalf of each participant in
 1908 ~~member of~~ the optional program an amount equal to 12.49 percent
 1909 of the participant's ~~employee's~~ gross monthly compensation.

1910 ~~e.~~ ~~Effective July 1, 2011, each member of the optional~~
 1911 ~~annuity program shall contribute an amount equal to the employee~~
 1912 ~~contribution required under s. 121.71(3). The employer shall~~
 1913 ~~contribute on behalf of such employee an amount equal to the~~
 1914 ~~difference between 12.49 percent of the employee's gross monthly~~

HB 1309

2012

1915 ~~compensation and the amount equal to the employee's required~~
1916 ~~contribution based on the employee's gross monthly compensation.~~

1917 ~~d.~~ The department shall deduct an amount approved by the
1918 Legislature to provide for the administration of this program.
1919 The payment of the contributions to the optional program which
1920 is required by this subparagraph for each participant, ~~including~~
1921 ~~contributions made by the employee,~~ shall be made by the
1922 employer to the department, which shall forward the
1923 contributions to the designated company or companies contracting
1924 for payment of benefits for the participant member under the
1925 program.

1926 2. Each employer shall contribute on behalf of each
1927 participant in member of the Senior Management Service Optional
1928 Annuity Program an amount equal to the unfunded actuarial
1929 accrued liability portion of the employer contribution which
1930 would be required for members of the Senior Management Service
1931 Class in the Florida Retirement System. This contribution shall
1932 be paid to the department for transfer to the Florida Retirement
1933 System Trust Fund.

1934 3. An Optional Annuity Program Trust Fund shall be
1935 established in the State Treasury and administered by the
1936 department to make payments to provider companies on behalf of
1937 the optional annuity program participants ~~members~~, and to
1938 transfer the unfunded liability portion of the state optional
1939 annuity program contributions to the Florida Retirement System
1940 Trust Fund.

1941 4. Contributions required for social security by each
1942 employer and each participant ~~employee~~, in the amount required

HB 1309

2012

1943 for social security coverage as now or hereafter may be provided
 1944 by the federal Social Security Act shall be maintained for each
 1945 participant in ~~member of~~ the Senior Management Service
 1946 retirement program and shall be ~~are~~ in addition to the
 1947 retirement contributions specified in this paragraph.

1948 5. Each participant in ~~member of~~ the Senior Management
 1949 Service Optional Annuity Program may contribute by way of salary
 1950 reduction or deduction a percentage amount of the participant's
 1951 ~~employee's~~ gross compensation not to exceed the percentage
 1952 amount contributed by the employer to the optional annuity
 1953 program. Payment of the participant's ~~employee's~~ contributions
 1954 shall be made by the employer to the department, which shall
 1955 forward the contributions to the designated company or companies
 1956 contracting for payment of benefits for the participant ~~member~~
 1957 under the program.

1958 (e) *Benefits.*—

1959 1. Benefits under the Senior Management Service Optional
 1960 Annuity Program are payable only to participants in ~~members of~~
 1961 the program, or their beneficiaries as designated by the
 1962 participant ~~member~~ in the contract with the provider company,
 1963 and must be paid by the designated company in accordance with
 1964 the terms of the annuity contract applicable to the participant
 1965 ~~member~~. A participant ~~member~~ must be terminated from all
 1966 employment relationships with Florida Retirement System
 1967 employers as provided in s. 121.021(39) ~~for 3 calendar months~~ to
 1968 begin receiving the employer-funded ~~and employee-funded~~ benefit.
 1969 ~~The member must meet the definition of termination in s.~~
 1970 ~~121.021(39) beginning the month after receiving a benefit,~~

HB 1309

2012

1971 ~~including a distribution.~~ Benefits funded by employer ~~and~~
 1972 ~~employee~~ contributions are payable under the terms of the
 1973 contract to the participant member, his or her beneficiary, or
 1974 his or her estate, in addition to:

1975 a. A lump-sum payment to the beneficiary upon the death of
 1976 the participant member;

1977 b. A cash-out of a de minimis account upon the request of
 1978 a former participant member who has been terminated for a
 1979 minimum of 6 calendar months from the employment that entitled
 1980 him or her to optional annuity program participation. Such cash-
 1981 out must be a complete liquidation of the account balance with
 1982 that company and is subject to the Internal Revenue Code;

1983 c. A mandatory distribution of a de minimis account of a
 1984 former participant member who has been terminated for a minimum
 1985 of 6 calendar months from the employment that entitled him or
 1986 her to optional annuity program participation as authorized by
 1987 the department; or

1988 d. A lump-sum direct rollover distribution whereby all
 1989 accrued benefits, plus interest and investment earnings, are
 1990 paid from the participant's ~~member's~~ account directly to the
 1991 custodian of an eligible retirement plan, as defined in s.
 1992 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
 1993 participant member.

1994 ~~2. Under the Senior Management Service Optional Annuity~~
 1995 ~~Program, benefits, including employee contributions, are not~~
 1996 ~~payable for employee hardships, unforeseeable emergencies,~~
 1997 ~~loans, medical expenses, educational expenses, purchase of a~~
 1998 ~~principal residence, payments necessary to prevent eviction or~~

1999 ~~foreclosure on an employee's principal residence, or any other~~
 2000 ~~reason before termination from all employment relationships with~~
 2001 ~~participating employers for 3 calendar months.~~

2002 2.3. The benefits payable to any person under the Senior
 2003 Management Service Optional Annuity Program, and any
 2004 contribution accumulated under such program, are not subject to
 2005 assignment, execution, or attachment or to any legal process
 2006 whatsoever.

2007 3.4. Except as provided in subparagraph 4.5., a
 2008 participant member who terminates employment and receives a
 2009 distribution, including a rollover or trustee-to-trustee
 2010 transfer, funded by employer ~~and required employee~~ contributions
 2011 shall be is deemed to be retired from a state-administered
 2012 retirement system if the participant member is subsequently
 2013 employed with an employer that participates in the Florida
 2014 Retirement System.

2015 4.5. A participant member who receives optional annuity
 2016 program benefits funded by employer ~~and employee~~ contributions
 2017 as a mandatory distribution of a de minimis account authorized
 2018 by the department is not considered a retiree.

2019
 2020 As used in this paragraph, a "de minimis account" means an
 2021 account with a provider company containing employer ~~and employee~~
 2022 contributions and accumulated earnings of not more than \$5,000
 2023 made under this chapter.

2024 Section 12. Subsection (2) of section 121.061, Florida
 2025 Statutes, is amended to read:

2026 121.061 Funding.—

2027 (2) (a) Should any employer other than a state employer
 2028 fail to make the retirement and social security contributions,
 2029 both member and employer contributions, required by this
 2030 chapter, then, upon request by the administrator, the Department
 2031 of Revenue or the Department of Financial Services, as the case
 2032 may be, shall deduct the amount owed by the employer from any
 2033 funds to be distributed by it to the county, city ~~municipality~~,
 2034 metropolitan planning organization, special district, or
 2035 consolidated form of government. The amounts so deducted shall
 2036 be transferred to the administrator for further distribution to
 2037 the trust funds in accordance with this chapter.

2038 (b) Should any employer for whom the city ~~municipality~~ or
 2039 county tax collector collects taxes, fail to make the retirement
 2040 and social security contributions required by this chapter, the
 2041 tax collector, at the request of the administrator and upon
 2042 receipt of a certificate from the administrator showing the
 2043 amount owed by the employer, shall deduct the amount so
 2044 certified from any taxes collected for the employer and remit
 2045 the amount to the administrator for further distribution to the
 2046 trust funds in accordance with this chapter.

2047 (c) The governing body of each county, city ~~municipality~~,
 2048 metropolitan planning organization, special district, or
 2049 consolidated form of government participating under this chapter
 2050 or the administrator, acting individually or jointly, is hereby
 2051 authorized to file and maintain an action in the courts of the
 2052 state to require any employer to remit any retirement or social
 2053 security member contributions or employer matching payments due
 2054 the retirement or social security trust funds under the

2055 provisions of this chapter.

2056 (d) Should the income of any constitutional fee officer,
 2057 in any year, be insufficient to make the matching payments
 2058 required by this chapter, the board of county commissioners
 2059 shall provide such fee officer sufficient funds to make these
 2060 required payments when due.

2061 Section 13. Subsections (2) and (5), paragraphs (c) and
 2062 (d) of subsection (6), and subsection (7) of section 121.071,
 2063 Florida Statutes, are amended to read:

2064 121.071 Contributions.—Contributions to the system shall
 2065 be made as follows:

2066 (2) (a) Effective January 1, 1975, or October 1, 1975, as
 2067 applicable, ~~and through June 30, 2011,~~ each employer shall
 2068 accomplish ~~make~~ the contribution required by subsection (1) by a
 2069 procedure in which no employee's gross salary shall be ~~is~~
 2070 reduced. ~~Effective July 1, 2011, each employer and employee~~
 2071 ~~shall pay retirement contributions as specified in s. 121.71.~~

2072 (b) Upon termination of employment ~~from all participating~~
 2073 ~~employers for 3 calendar months for~~ any reason other than
 2074 retirement ~~pursuant to s. 121.021(39)(e),~~ a member shall be
 2075 entitled to ~~may receive~~ a full refund of the all contributions
 2076 he or she has made prior or subsequent to participation in the
 2077 noncontributory to the pension plan, subject to the restrictions
 2078 otherwise provided in this chapter. ~~Partial refunds are not~~
 2079 ~~permitted. The refund may not include any interest earnings on~~
 2080 ~~the contributions for a member of the pension plan. Employer~~
 2081 ~~contributions made on behalf of the member are not refundable. A~~
 2082 ~~member may not receive a refund of employee contributions if a~~

HB 1309

2012

2083 ~~pending or an approved qualified domestic relations order is~~
2084 ~~filed against his or her retirement account. By obtaining a~~
2085 ~~refund of contributions, a member waives all rights under the~~
2086 ~~Florida Retirement System and the health insurance subsidy to~~
2087 ~~the service credit represented by the refunded contributions,~~
2088 ~~except the right to purchase his or her prior service credit in~~
2089 ~~accordance with s. 121.081(2).~~

2090 (5) Contributions made in accordance with subsections (1),
2091 (2), (3), and (4), and s. 121.71 shall be paid by the employer
2092 into the system trust funds in accordance with rules adopted by
2093 the administrator pursuant to chapter 120, except as may be
2094 otherwise specified herein. Effective July 1, 2002,
2095 contributions paid under subsections (1) and (4) and
2096 accompanying payroll data are due and payable no later than the
2097 5th working day of the month immediately after ~~following~~ the
2098 month during which the payroll period ended.

2099 (6)

2100 (c) By obtaining a refund of contributions, a member
2101 waives all rights under the Florida Retirement System ~~and the~~
2102 ~~health insurance subsidy as provided in s. 112.363 to the~~
2103 service credit represented by the refunded contributions, except
2104 the right to purchase his or her prior service credit in
2105 accordance with s. 121.081(2).

2106 ~~(d) If a member or former member of the pension plan~~
2107 ~~receives an invalid refund from the Florida Retirement System~~
2108 ~~Trust Fund, such person must repay the full amount of the~~
2109 ~~invalid refund, plus interest at 6.5 percent compounded annually~~
2110 ~~on each June 30 from the date of refund until full payment is~~

HB 1309

2012

2111 ~~made to the trust fund. The invalid refund must be repaid before~~
 2112 ~~the member retires or, if applicable, transfers to the~~
 2113 ~~investment plan.~~

2114 ~~(7) Before termination of employment, benefits, including~~
 2115 ~~employee contributions, are not payable under the pension plan~~
 2116 ~~for employee hardships, unforeseeable emergencies, loans,~~
 2117 ~~medical expenses, educational expenses, purchase of a principal~~
 2118 ~~residence, payments necessary to prevent eviction or foreclosure~~
 2119 ~~on an employee's principal residence, or any other reason before~~
 2120 ~~termination from all employment relationships with participating~~
 2121 ~~employers.~~

2122 Section 14. Paragraphs (b) and (c) of subsection (1) and
 2123 subsection (2) of section 121.081, Florida Statutes, are amended
 2124 to read:

2125 121.081 Past service; prior service; contributions.—
 2126 Conditions under which past service or prior service may be
 2127 claimed and credited are:

2128 (1)

2129 (b) Past service earned after January 1, 1975, may be
 2130 claimed by officers or employees of a municipality, metropolitan
 2131 planning organization, charter school, charter technical career
 2132 center, or special district who become a covered group under
 2133 this system. The governing body of a covered group may elect to
 2134 provide benefits for past service earned after January 1, 1975,
 2135 in accordance with this chapter, and the cost for such past
 2136 service is established by applying the following formula: The
 2137 employer shall contribute an amount equal to the ~~employer~~
 2138 contribution rate in effect at the time the service was earned

HB 1309

2012

2139 ~~and, if applicable, the employee contribution rate,~~ multiplied
2140 by the employee's gross salary for each year of past service
2141 claimed, plus 6.5-percent ~~6.5 percent~~ interest thereon,
2142 compounded annually, figured on ~~for~~ each year of past service,
2143 with interest compounded from date of annual salary earned until
2144 date of payment.

2145 (c) Should the employer ~~If an employer joins the Florida~~
2146 ~~Retirement System and does~~ not elect to provide past service for
2147 the member ~~at the time of joining,~~ then the member may claim and
2148 pay same, ~~based on for the service as provided in~~ paragraphs (a)
2149 and (b).

2150 (2) Prior service, as defined in s. 121.021(19), may be
2151 claimed as creditable service under the Florida Retirement
2152 System after a member has been reemployed for 1 complete year of
2153 creditable service within a period of 12 consecutive months,
2154 except as provided in paragraph (c). Service performed as a
2155 participant ~~member~~ of the optional retirement program for the
2156 State University System under s. 121.35 or the Senior Management
2157 Service Optional Annuity Program under s. 121.055 may be used to
2158 satisfy the reemployment requirement of 1 complete year of
2159 creditable service. The member shall not be permitted to make
2160 any contributions for prior service until after completion of
2161 the 1 year of creditable service. If a member does not wish to
2162 claim credit for all of his or her prior service, the service
2163 the member claims must be the most recent period of service. The
2164 required contributions for claiming the various types of prior
2165 service are:

2166 (a) For prior service performed prior to ~~before~~ the date

HB 1309

2012

2167 the system becomes noncontributory for the member and for which
2168 the member had credit under one of the existing retirement
2169 systems and received a refund of contributions upon termination
2170 of employment, the member shall contribute 4 percent of all
2171 salary received during the period being claimed, plus 4-percent
2172 ~~4-percent~~ interest compounded annually from date of refund until
2173 July 1, 1975, and 6.5-percent ~~6.5-percent~~ interest compounded
2174 annually thereafter, until full payment is made to the ~~Florida~~
2175 Retirement ~~System~~ Trust Fund, and shall receive credit in the
2176 Regular Class. A member who elected to transfer to the Florida
2177 Retirement System from an existing system may receive credit for
2178 prior service under the existing system if he or she was
2179 eligible under the existing system to claim the prior service at
2180 the time of the transfer. Contributions for such prior service
2181 shall be determined by the applicable provisions of the system
2182 under which the prior service is claimed and shall be paid by
2183 the member, with matching contributions paid by the employer at
2184 the time the service was performed. Effective July 1, 1978, the
2185 account of a person who terminated under s. 238.05(3) may not be
2186 charged interest for contributions that remained on deposit in
2187 the Annuity Savings Trust Fund established under chapter 238,
2188 upon retirement under this chapter or chapter 238.

2189 (b) For prior service performed prior to ~~before~~ the date
2190 the system becomes noncontributory for the member and for which
2191 the member had credit under the Florida Retirement System and
2192 received a refund of contributions upon termination of
2193 employment, the member shall contribute at the rate that was
2194 required of him or her during the period of service being

HB 1309

2012

2195 | claimed, on all salary received during such period, plus 4-
 2196 | percent ~~4-percent~~ interest compounded annually from date of
 2197 | refund until July 1, 1975, and 6.5-percent ~~6.5-percent~~ interest
 2198 | compounded annually thereafter, until the full payment is made
 2199 | to the ~~Florida Retirement System~~ Trust Fund, and shall receive
 2200 | credit in the membership class in which the member participated
 2201 | during the period claimed.

2202 | (c) For prior service as defined in s. 121.021(19)(b) and
 2203 | (c) during which no contributions were made because the member
 2204 | did not participate in a retirement system, the member shall
 2205 | contribute 14.38 percent of all salary received during such
 2206 | period or 14.38 percent of \$100 per month during such period,
 2207 | whichever is greater, plus 4-percent ~~4-percent~~ interest
 2208 | compounded annually from the first year of service claimed until
 2209 | July 1, 1975, and 6.5-percent ~~6.5-percent~~ interest compounded
 2210 | annually thereafter, until full payment is made to the
 2211 | Retirement Trust Fund, and shall receive credit in the Regular
 2212 | Class.

2213 | (d) In order to claim credit for prior service as defined
 2214 | in s. 121.021(19)(d) for which no retirement contributions were
 2215 | paid during the period of such service, the member shall
 2216 | contribute the total employee and employer contributions which
 2217 | were required to be made to the Highway Patrol Pension Trust
 2218 | Fund, as provided in chapter 321, during the period claimed,
 2219 | plus 4-percent ~~4-percent~~ interest compounded annually from the
 2220 | first year of service until July 1, 1975, and 6.5-percent ~~6.5-~~
 2221 | ~~percent~~ interest compounded annually thereafter, until full
 2222 | payment is made to the Retirement Trust Fund. However, any

HB 1309

2012

2223 governmental entity which ~~that~~ employed such member may elect to
 2224 pay up to 50 percent of the contributions and interest required
 2225 to purchase this ~~the~~ prior service credit. The service shall be
 2226 credited in accordance with the provisions of the Highway Patrol
 2227 Pension Plan in effect during the period claimed unless the
 2228 member terminated and withdrew his or her retirement
 2229 contributions and was thereafter enrolled in the State and
 2230 County Officers and Employees' Retirement System or the Florida
 2231 Retirement System, in which case the service shall be credited
 2232 as Regular Class service.

2233 (e) For service performed under the Florida Retirement
 2234 System after December 1, 1970, that ~~which~~ was never reported to
 2235 the division or the department due to error, retirement credit
 2236 may be claimed by a member of the Florida Retirement System. The
 2237 department shall adopt rules establishing criteria for claiming
 2238 such credit and detailing the documentation required to
 2239 substantiate the error.

2240 ~~(f) For prior service performed on or after July 1, 2011,~~
 2241 ~~for which the member had credit under the Florida Retirement~~
 2242 ~~System and received a refund of contributions 3 calendar months~~
 2243 ~~after termination of employment, the member shall contribute at~~
 2244 ~~the rate that was required during the period of service being~~
 2245 ~~claimed, plus 6.5 percent interest, compounded annually on each~~
 2246 ~~June 30 from date of refund until the full payment is made to~~
 2247 ~~the Florida Retirement System Trust Fund, and receive credit in~~
 2248 ~~the membership class in which the member participated during the~~
 2249 ~~period claimed.~~

2250 (f) ~~(g)~~ The employer may not be required to make

2251 contributions for prior service credit for any member, except
 2252 that the employer shall pay the employer portion of
 2253 contributions for any legislator who elects to withdraw from the
 2254 Florida Retirement System and later rejoins the system and pays
 2255 any employee contributions required in accordance with s.
 2256 121.052(3)(d).

2257 Section 15. Paragraphs (a) and (b) of subsection (3),
 2258 paragraphs (a) and (j) of subsection (4), paragraphs (a) and (c)
 2259 of subsection (5), paragraph (d) of subsection (9), paragraphs
 2260 (a) and (c) of subsection (13), and paragraph (d) of subsection
 2261 (14) of section 121.091, Florida Statutes, are amended to read:

2262 121.091 Benefits payable under the system.—Benefits may
 2263 not be paid under this section unless the member has terminated
 2264 employment as provided in s. 121.021(39)(a) or begun
 2265 participation in the Deferred Retirement Option Program as
 2266 provided in subsection (13), and a proper application has been
 2267 filed in the manner prescribed by the department. The department
 2268 may cancel an application for retirement benefits when the
 2269 member or beneficiary fails to timely provide the information
 2270 and documents required by this chapter and the department's
 2271 rules. The department shall adopt rules establishing procedures
 2272 for application for retirement benefits and for the cancellation
 2273 of such application when the required information or documents
 2274 are not received.

2275 (3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or
 2276 her early retirement date, the member shall receive an immediate
 2277 monthly benefit that shall begin to accrue on the first day of
 2278 the month of the retirement date and be payable on the last day

2279 of that month and each month thereafter during his or her
 2280 lifetime. Such benefit shall be calculated as follows:

2281 (a) ~~For a member initially enrolled:~~

2282 ~~1. Before July 1, 2011,~~ The amount of each monthly payment
 2283 shall be computed in the same manner as for a normal retirement
 2284 benefit, in accordance with subsection (1), but shall be based
 2285 on the member's average monthly compensation and creditable
 2286 service as of the member's early retirement date. The benefit so
 2287 computed shall be reduced by five-twelfths of 1 percent for each
 2288 complete month by which the early retirement date precedes the
 2289 normal retirement date of age 62 for a member of the Regular
 2290 Class, Senior Management Service Class, or the Elected Officers'
 2291 Class, and age 55 for a member of the Special Risk Class, or age
 2292 52 if a Special Risk member has completed 25 years of creditable
 2293 service in accordance with s. 121.021(29)(b)3.

2294 ~~121.021(29)(b)1.c.~~

2295 ~~2. On or after July 1, 2011, the amount of each monthly~~
 2296 ~~payment shall be computed in the same manner as for a normal~~
 2297 ~~retirement benefit, in accordance with subsection (1), but shall~~
 2298 ~~be based on the member's average monthly compensation and~~
 2299 ~~creditable service as of the member's early retirement date. The~~
 2300 ~~benefit so computed shall be reduced by five-twelfths of 1~~
 2301 ~~percent for each complete month by which the early retirement~~
 2302 ~~date precedes the normal retirement date of age 65 for a member~~
 2303 ~~of the Regular Class, Senior Management Service Class, or the~~
 2304 ~~Elected Officers' Class, and age 60 for a member of the Special~~
 2305 ~~Risk Class, or age 57 if a special risk member has completed 30~~
 2306 ~~years of creditable service in accordance with s.~~

HB 1309

2012

2307 ~~121.021(29)(b)2.c.~~

2308 (b) If the employment of a member is terminated by reason
 2309 of death subsequent to the completion of 20 years of creditable
 2310 service ~~within 10 years before normal retirement as described in~~
 2311 ~~s. 121.021(29)(a)1.b. or s. 121.021(29)(a)2.b.~~, the monthly
 2312 benefit payable to the member's beneficiary shall be calculated
 2313 in accordance with subsection (1), but shall ~~must~~ be based on
 2314 average monthly compensation and creditable service as of the
 2315 date of death. The benefit so computed shall be reduced by five-
 2316 twelfths of 1 percent for each complete month by which death
 2317 precedes the normal retirement date specified above or the date
 2318 on which the member would have attained 30 years of creditable
 2319 service ~~the normal retirement date~~ had he or she survived and
 2320 continued his or her employment, whichever provides a higher
 2321 benefit.

2322 (4) DISABILITY RETIREMENT BENEFIT.—

2323 (a) *Disability retirement; entitlement and effective*
 2324 *date.*—

2325 1.a. A member who becomes totally and permanently
 2326 disabled, as defined in paragraph (b), after completing 5 years
 2327 of creditable service, or a member who becomes totally and
 2328 permanently disabled in the line of duty regardless of service,
 2329 shall be ~~is~~ entitled to a monthly disability benefit; except
 2330 that any member with less than 5 years of creditable service on
 2331 July 1, 1980, or any person who becomes a member of the Florida
 2332 Retirement System on or after such date must have completed 10
 2333 years of creditable service prior to ~~before~~ becoming totally and
 2334 permanently disabled in order to receive disability retirement

HB 1309

2012

2335 benefits for any disability which occurs other than in the line
 2336 of duty. However, if a member employed on July 1, 1980, with ~~who~~
 2337 ~~has~~ less than 5 years of creditable service as of that date,
 2338 becomes totally and permanently disabled after completing 5
 2339 years of creditable service and is found not to have attained
 2340 fully insured status for benefits under the federal Social
 2341 Security Act, such member shall be ~~is~~ entitled to a monthly
 2342 disability benefit.

2343 b. Effective July 1, 2001, a member of the defined benefit
 2344 retirement program ~~pension plan~~ who becomes totally and
 2345 permanently disabled, as defined in paragraph (b), after
 2346 completing 8 years of creditable service, or a member who
 2347 becomes totally and permanently disabled in the line of duty
 2348 regardless of service, shall be ~~is~~ entitled to a monthly
 2349 disability benefit.

2350 2. If the division has received from the employer the
 2351 required documentation of the member's termination of
 2352 employment, the effective retirement date for a member who
 2353 applies and is approved for disability retirement shall be
 2354 established by rule of the division.

2355 3. For a member who is receiving Workers' Compensation
 2356 payments, the effective disability retirement date may not
 2357 precede the date the member reaches Maximum Medical Improvement
 2358 (MMI), unless the member terminates employment prior to ~~before~~
 2359 reaching MMI.

2360 (j) *Disability retirement of justice or judge by order of*
 2361 *Supreme Court.*—

2362 1. If a member is a justice of the Supreme Court, judge of

HB 1309

2012

2363 a district court of appeal, circuit judge, or judge of a county
 2364 court who has served for 6 years or more ~~the number of years~~
 2365 ~~equal to, or greater than, the vesting requirement in s.~~
 2366 ~~121.021(45)~~ as an elected constitutional judicial officer,
 2367 including service as a judicial officer, in any court abolished
 2368 pursuant to Art. V of the State Constitution, and who is retired
 2369 for disability by order of the Supreme Court upon recommendation
 2370 of the Judicial Qualifications Commission pursuant to the
 2371 provisions of Art. V of the State Constitution, the member's
 2372 Option 1 monthly benefit as provided in subparagraph (6)(a)1.
 2373 shall ~~may~~ not be less than two-thirds of his or her monthly
 2374 compensation as of the member's disability retirement date. Such
 2375 a member may alternatively elect to receive a disability
 2376 retirement benefit under any other option as provided in
 2377 paragraph (6)(a).

2378 2. Should any justice or judge who is a member of the
 2379 Florida Retirement System be retired for disability by order of
 2380 the Supreme Court upon recommendation of the Judicial
 2381 Qualifications Commission pursuant to the provisions of Art. V
 2382 of the State Constitution, then all contributions to his or her
 2383 account and all contributions made on his or her behalf by the
 2384 employer shall be transferred to and deposited in the General
 2385 Revenue Fund of the state, and there is hereby appropriated
 2386 annually out of the General Revenue Fund, to be paid into the
 2387 Florida Retirement System Fund, an amount necessary to pay the
 2388 benefits of all justices and judges retired from the Florida
 2389 Retirement System pursuant to Art. V of the State Constitution.

2390 (5) TERMINATION BENEFITS.—A member whose employment is

2391 terminated prior to retirement retains membership rights to
 2392 previously earned member-noncontributory service credit, and to
 2393 member-contributory service credit, if the member leaves the
 2394 member contributions on deposit in his or her retirement
 2395 account. If a terminated member receives a refund of member
 2396 contributions, such member may reinstate membership rights to
 2397 the previously earned service credit represented by the refund
 2398 by completing 1 year of creditable service and repaying the
 2399 refunded member contributions, plus interest.

2400 (a) A member whose employment is terminated for any reason
 2401 other than death or retirement prior to ~~before~~ becoming vested
 2402 is entitled to the return of his or her accumulated
 2403 contributions as of the date of termination. ~~Effective July 1,~~
 2404 ~~2011, upon termination of employment from all participating~~
 2405 ~~employers for 3 calendar months as defined in s. 121.021(39)(c)~~
 2406 ~~for any reason other than retirement, a member may receive a~~
 2407 ~~refund of all contributions he or she has made to the pension~~
 2408 ~~plan, subject to the restrictions otherwise provided in this~~
 2409 ~~chapter. The refund may be received as a lump sum payment, a~~
 2410 ~~rollover to a qualified plan, or a combination of these methods.~~
 2411 ~~Partial refunds are not permitted. The refund may not include~~
 2412 ~~any interest earnings on the contributions for a member of the~~
 2413 ~~pension plan. Employer contributions made on behalf of the~~
 2414 ~~member are not refundable. A member may not receive a refund of~~
 2415 ~~employee contributions if a pending or an approved qualified~~
 2416 ~~domestic relations order is filed against his or her retirement~~
 2417 ~~account. By obtaining a refund of contributions, a member waives~~
 2418 ~~all rights under the Florida Retirement System and the health~~

HB 1309

2012

2419 ~~insurance subsidy to the service credit represented by the~~
2420 ~~refunded contributions, except the right to purchase his or her~~
2421 ~~prior service credit in accordance with s. 121.081(2).~~

2422 (c) In lieu of the deferred monthly benefit provided in
2423 paragraph (b), the terminated member may elect to receive a
2424 lump-sum amount equal to his or her accumulated contributions as
2425 of the date of termination. ~~Effective July 1, 2011, upon~~
2426 ~~termination of employment from all participating employers for 3~~
2427 ~~calendar months as defined in s. 121.021(39)(c) for any reason~~
2428 ~~other than retirement, a member may receive a refund of all~~
2429 ~~contributions he or she has made to the pension plan, subject to~~
2430 ~~the restrictions otherwise provided in this chapter. Partial~~
2431 ~~refunds are not permitted. The refund may not include any~~
2432 ~~interest earnings on the contributions for a member of the~~
2433 ~~pension plan. Employer contributions made on behalf of the~~
2434 ~~member are not refundable. A member may not receive a refund of~~
2435 ~~employee contributions if a pending or an approved qualified~~
2436 ~~domestic relations order is filed against his or her retirement~~
2437 ~~account. By obtaining a refund of contributions, a member waives~~
2438 ~~all rights under the Florida Retirement System and the health~~
2439 ~~insurance subsidy to the service credit represented by the~~
2440 ~~refunded contributions, except the right to purchase his or her~~
2441 ~~prior service credit in accordance with s. 121.081(2).~~

2442 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

2443 (d) The provisions of This subsection apply applies to
2444 retirees, as defined in s. 121.4501(2), of the Public Employee
2445 Optional Retirement Program Florida Retirement System Investment
2446 Plan, subject to the following conditions:

HB 1309

2012

2447 1. The retirees ~~A retiree~~ may not be reemployed with an
2448 employer participating in the Florida Retirement System until
2449 such person has been retired for 6 calendar months.

2450 2. A retiree employed in violation of this subsection and
2451 an employer that employs or appoints such person are jointly and
2452 severally liable for reimbursement of any benefits paid to the
2453 retirement trust fund from which the benefits were paid,
2454 including the Retirement System Trust Fund and the Public
2455 Employee Optional Retirement Program Trust Fund, as appropriate.
2456 The employer must have a written statement from the retiree that
2457 he or she is not retired from a state-administered retirement
2458 system.

2459 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and
2460 subject to this section, the Deferred Retirement Option Program,
2461 hereinafter referred to as DROP, is a program under which an
2462 eligible member of the Florida Retirement System may elect to
2463 participate, deferring receipt of retirement benefits while
2464 continuing employment with his or her Florida Retirement System
2465 employer. The deferred monthly benefits shall accrue in the
2466 Florida Retirement System on behalf of the participant member,
2467 plus interest compounded monthly, for the specified period of
2468 the DROP participation, as provided in paragraph (c). Upon
2469 termination of employment, the participant member shall receive
2470 the total DROP benefits and begin to receive the previously
2471 determined normal retirement benefits. Participation in the DROP
2472 does not guarantee employment for the specified period of DROP.
2473 Participation in DROP by an eligible member beyond the initial
2474 60-month period as authorized in this subsection shall be on an

2475 annual contractual basis for all participants.

2476 (a) *Eligibility of member to participate in DROP.*—All
 2477 active Florida Retirement System members in a regularly
 2478 established position, and all active members of the Teachers'
 2479 Retirement System established in chapter 238 or the State and
 2480 County Officers' and Employees' Retirement System established in
 2481 chapter 122, which are consolidated within the Florida
 2482 Retirement System under s. 121.011, are eligible to elect
 2483 participation in DROP if:

2484 1. The member is not a renewed member under s. 121.122 or
 2485 a member of the State Community College System Optional
 2486 Retirement Program under s. 121.051, the Senior Management
 2487 Service Optional Annuity Program under s. 121.055, or the
 2488 optional retirement program for the State University System
 2489 under s. 121.35.

2490 2. Except as provided in subparagraph 6., election to
 2491 participate is made within 12 months immediately after ~~following~~
 2492 the date on which the member first reaches normal retirement
 2493 date, or, for a member who reaches normal retirement date based
 2494 on service before he or she reaches age 62, or age 55 for
 2495 Special Risk Class members, election to participate may be
 2496 deferred to the 12 months immediately after ~~following~~ the date
 2497 the member attains age 57, or age 52 for Special Risk Class
 2498 members. A member who delays DROP participation during the 12-
 2499 month period immediately after ~~following~~ his or her maximum DROP
 2500 deferral date, except as provided in subparagraph 6., loses a
 2501 month of DROP participation for each month delayed. A member who
 2502 fails to make an election within the 12-month limitation period

HB 1309

2012

2503 forfeits all rights to participate in DROP. The member shall
 2504 advise his or her employer and the division in writing of the
 2505 date DROP begins. The beginning date may be subsequent to the
 2506 12-month election period but must be within the original 60-
 2507 month participation period provided in subparagraph (b)1. When
 2508 establishing eligibility of the member to participate in DROP,
 2509 the member may elect to include or exclude any optional service
 2510 credit purchased by the member from the total service used to
 2511 establish the normal retirement date. A member who has dual
 2512 normal retirement dates is eligible to elect to participate in
 2513 DROP after attaining normal retirement date in either class.

2514 3. The employer of a member electing to participate in
 2515 DROP, or employers if dually employed, shall acknowledge in
 2516 writing to the division the date the member's participation in
 2517 DROP begins and the date the member's employment and DROP
 2518 participation will terminate ~~terminates~~.

2519 4. Simultaneous employment of a participant ~~member~~ by
 2520 additional Florida Retirement System employers subsequent to the
 2521 commencement of ~~a member's~~ participation in DROP is permissible
 2522 if such employers acknowledge in writing a DROP termination date
 2523 no later than the participant's ~~member's~~ existing termination
 2524 date or the maximum participation period provided in
 2525 subparagraph (b)1.

2526 5. A DROP participant ~~member~~ may change employers while
 2527 participating in DROP, subject to the following:

2528 a. A change of employment must take ~~takes~~ place without a
 2529 break in service so that the member receives salary for each
 2530 month of continuous DROP participation. If a member receives no

HB 1309

2012

2531 salary during a month, DROP participation shall cease ~~ceases~~
 2532 unless the employer verifies a continuation of the employment
 2533 relationship for such participant ~~member~~ pursuant to s.
 2534 121.021(39) (b) .

2535 b. Such participant ~~The member~~ and new employer shall
 2536 notify the division of the identity of the new employer on forms
 2537 required by the division.

2538 c. The new employer shall acknowledge ~~acknowledges~~, in
 2539 writing, the participant's ~~member's~~ DROP termination date, which
 2540 may be extended but not beyond the maximum participation period
 2541 provided in subparagraph (b)1., shall acknowledge ~~acknowledges~~
 2542 liability for any additional retirement contributions and
 2543 interest required if the participant ~~member~~ fails to timely
 2544 terminate employment, and is subject to the adjustment required
 2545 in sub-subparagraph (c)5.d.

2546 6. Effective July 1, 2001, for instructional personnel as
 2547 defined in s. 1012.01(2), election to participate in DROP may be
 2548 made at any time after ~~following~~ the date on which the member
 2549 first reaches normal retirement date. The member shall advise
 2550 his or her employer and the division in writing of the date on
 2551 which DROP begins. When establishing eligibility of the member
 2552 to participate in DROP for the 60-month participation period
 2553 provided in subparagraph (b)1., the member may elect to include
 2554 or exclude any optional service credit purchased by the member
 2555 from the total service used to establish the normal retirement
 2556 date. A member who has dual normal retirement dates is eligible
 2557 to elect to participate in either class.

2558 (c) *Benefits payable under DROP.*—

2559 | 1. Effective on the date of DROP participation, the
 2560 | member's initial normal monthly benefit, including creditable
 2561 | service, optional form of payment, and average final
 2562 | compensation, and the effective date of retirement are fixed.
 2563 | The beneficiary established under the Florida Retirement System
 2564 | is the beneficiary eligible to receive any DROP benefits payable
 2565 | if the DROP participant dies before completing the period of
 2566 | DROP participation. If a joint annuitant predeceases the member,
 2567 | the member may name a beneficiary to receive accumulated DROP
 2568 | benefits payable. The retirement benefit, the annual cost of
 2569 | living adjustments provided in s. 121.101, and interest accrue
 2570 | monthly in the Florida Retirement System Trust Fund. ~~For members~~
 2571 | ~~whose DROP participation begins:~~

2572 | ~~a. Before July 1, 2011,~~ The interest accrues at an
 2573 | effective annual rate of 6.5 percent compounded monthly, on the
 2574 | prior month's accumulated ending balance, up to the month of
 2575 | termination or death, except as provided in s. 121.053(7).

2576 | ~~b. On or after July 1, 2011, the interest accrues at an~~
 2577 | ~~effective annual rate of 1.3 percent, compounded monthly, on the~~
 2578 | ~~prior month's accumulated ending balance, up to the month of~~
 2579 | ~~termination or death, except as provided in s. 121.053(7).~~

2580 | 2. Each employee who elects to participate in DROP may
 2581 | elect to receive a lump-sum payment for accrued annual leave
 2582 | earned in accordance with agency policy upon beginning
 2583 | participation in DROP. The accumulated leave payment certified
 2584 | to the division upon commencement of DROP shall be included in
 2585 | the calculation of the member's average final compensation. The
 2586 | employee electing the lump-sum payment is not eligible to

2587 receive a second lump-sum payment upon termination, except to
 2588 the extent the employee has earned additional annual leave
 2589 which, combined with the original payment, does not exceed the
 2590 maximum lump-sum payment allowed by the employing agency's
 2591 policy or rules. An early lump-sum payment shall be based on the
 2592 hourly wage of the employee at the time he or she begins
 2593 participation in DROP. If the member elects to wait and receive
 2594 a lump-sum payment upon termination of DROP and termination of
 2595 employment with the employer, any accumulated leave payment made
 2596 at that time may not be included in the member's retirement
 2597 benefit, which was determined and fixed by law when the employee
 2598 elected to participate in DROP.

2599 3. The effective date of DROP participation and the
 2600 effective date of retirement of a DROP participant shall be the
 2601 first day of the month selected by the member to begin
 2602 participation in DROP, provided such date is properly
 2603 established, with the written confirmation of the employer, and
 2604 the approval of the division, on forms required by the division.

2605 4. Normal retirement benefits and any interest shall
 2606 continue to accrue in DROP until the established termination
 2607 date of DROP or until the participant ~~member~~ terminates
 2608 employment or dies prior to ~~before~~ such date, except as provided
 2609 in s. 121.053(7). Although individual DROP accounts shall ~~may~~
 2610 not be established, a separate accounting of each participant's
 2611 ~~member's~~ accrued benefits under DROP shall be calculated and
 2612 provided to participants ~~the member~~.

2613 5. At the conclusion of the participant's ~~the member's~~
 2614 ~~participation in~~ DROP, the division shall distribute the

2615 participant's ~~member's~~ total accumulated DROP benefits, subject
 2616 to the following:

2617 a. The division shall receive verification by the
 2618 participant's ~~member's~~ employer or employers that the
 2619 participant ~~member~~ has terminated all employment relationships
 2620 as provided in s. 121.021(39).

2621 b. The terminated DROP participant or, if deceased, the
 2622 participant's ~~member's~~ named beneficiary, shall elect on forms
 2623 provided by the division to receive payment of the DROP benefits
 2624 in accordance with one of the options listed below. If a
 2625 participant ~~member~~ or beneficiary fails to elect a method of
 2626 payment within 60 days after termination of DROP, the division
 2627 shall pay a lump sum as provided in sub-sub-subparagraph (I).

2628 (I) Lump sum.—All accrued DROP benefits, plus interest,
 2629 less withholding taxes remitted to the Internal Revenue Service,
 2630 shall be paid to the DROP participant or surviving beneficiary.

2631 (II) Direct rollover.—All accrued DROP benefits, plus
 2632 interest, shall be paid from DROP directly to the custodian of
 2633 an eligible retirement plan as defined in s. 402(c)(8)(B) of the
 2634 Internal Revenue Code. However, in the case of an eligible
 2635 rollover distribution to the surviving spouse of a deceased
 2636 participant ~~member~~, an eligible retirement plan is an individual
 2637 retirement account or an individual retirement annuity as
 2638 described in s. 402(c)(9) of the Internal Revenue Code.

2639 (III) Partial lump sum.—A portion of the accrued DROP
 2640 benefits shall be paid to DROP participant or surviving spouse,
 2641 less withholding taxes remitted to the Internal Revenue Service,
 2642 and the remaining DROP benefits must be transferred directly to

HB 1309

2012

2643 the custodian of an eligible retirement plan as defined in s.
 2644 402(c)(8)(B) of the Internal Revenue Code. However, in the case
 2645 of an eligible rollover distribution to the surviving spouse of
 2646 a deceased participant ~~member~~, an eligible retirement plan is an
 2647 individual retirement account or an individual retirement
 2648 annuity as described in s. 402(c)(9) of the Internal Revenue
 2649 Code. The proportions must be specified by the DROP participant
 2650 or surviving beneficiary.

2651 c. The form of payment selected by the DROP participant or
 2652 surviving beneficiary must comply with the minimum distribution
 2653 requirements of the Internal Revenue Code.

2654 d. A DROP participant who fails to terminate all
 2655 employment relationships as provided in s. 121.021(39) shall be
 2656 deemed as not retired, and the DROP election is null and void.
 2657 Florida Retirement System membership shall be reestablished
 2658 retroactively to the date of the commencement of DROP, and each
 2659 employer with whom the participant ~~member~~ continues employment
 2660 must pay to the Florida Retirement System Trust Fund the
 2661 difference between the DROP contributions paid in paragraph (i)
 2662 and the contributions required for the applicable Florida
 2663 Retirement System class of membership during the period the
 2664 member participated in DROP, plus 6.5 percent interest
 2665 compounded annually.

2666 6. The retirement benefits of any DROP participant who
 2667 terminates all employment relationships as provided in s.
 2668 121.021(39) but is reemployed in violation of the reemployment
 2669 provisions of subsection (9) shall be ~~are~~ suspended during those
 2670 months in which the retiree is in violation. Any retiree in

HB 1309

2012

2671 violation of this subparagraph and any employer that employs or
2672 appoints such person without notifying the Division of
2673 Retirement to suspend retirement benefits are jointly and
2674 severally liable for any benefits paid during the reemployment
2675 limitation period. The employer must have a written statement
2676 from the retiree that he or she is not retired from a state-
2677 administered retirement system. Any retirement benefits received
2678 by a retiree while employed in violation of the reemployment
2679 limitations must be repaid to the Florida Retirement System
2680 Trust Fund, and his or her retirement benefits shall remain
2681 suspended until payment is made. Benefits suspended beyond the
2682 end of the reemployment limitation period apply toward repayment
2683 of benefits received in violation of the reemployment
2684 limitation.

2685 7. The accrued benefits of any DROP participant, and any
2686 contributions accumulated under the program, are not subject to
2687 assignment, execution, attachment, or any legal process
2688 whatsoever, except for qualified domestic relations ~~court~~ orders
2689 by a court of competent jurisdiction, income deduction orders as
2690 provided in s. 61.1301, and federal income tax levies.

2691 8. DROP participants are not eligible for disability
2692 retirement benefits as provided in subsection (4).

2693 (14) PAYMENT OF BENEFITS.—This subsection applies to the
2694 payment of benefits to a payee (retiree or beneficiary) under
2695 the Florida Retirement System:

2696 (d) A payee whose retirement benefits are reduced by the
2697 application of maximum benefit limits under s. 415(b) of the
2698 Internal Revenue Code, as specified in s. 121.30(5), shall have

HB 1309

2012

2699 the portion of his or her calculated benefit in the Florida
 2700 Retirement System Defined Benefit System ~~System Pension~~ Plan which
 2701 exceeds such federal limitation paid through the Florida
 2702 Retirement System Preservation of Benefits Plan, as provided in
 2703 s. 121.1001.

2704 Section 16. Subsection (1) and paragraph (a) of subsection
 2705 (2) of section 121.1001, Florida Statutes, are amended to read:

2706 121.1001 Florida Retirement System Preservation of
 2707 Benefits Plan.—Effective July 1, 1999, the Florida Retirement
 2708 System Preservation of Benefits Plan is established as a
 2709 qualified governmental excess benefit arrangement pursuant to s.
 2710 415(m) of the Internal Revenue Code. The Preservation of
 2711 Benefits Plan is created as a separate portion of the Florida
 2712 Retirement System, for the purpose of providing benefits to a
 2713 payee (retiree or beneficiary) of the Florida Retirement System
 2714 whose benefits would otherwise be limited by s. 415(b) of the
 2715 Internal Revenue Code.

2716 (1) ELIGIBILITY TO PARTICIPATE IN THE PRESERVATION OF
 2717 BENEFITS PLAN.—A payee of the Florida Retirement System shall
 2718 participate in the Preservation of Benefits Plan whenever ~~if~~ his
 2719 or her earned benefit under the Florida Retirement System
 2720 Defined Benefit System ~~System Pension~~ Plan exceeds the benefit maximum
 2721 established under s. 415(b) of the Internal Revenue Code.
 2722 Participation in the Preservation of Benefits Plan shall
 2723 continue for as long as the payee's earned benefit under the
 2724 Florida Retirement System Defined Benefit ~~pension~~ plan is
 2725 reduced by the application of the maximum benefit limit under s.
 2726 415(b) of the Internal Revenue Code.

HB 1309

2012

2727 (2) BENEFITS PAYABLE UNDER THE PRESERVATION OF BENEFITS
 2728 PLAN.—

2729 (a) On and after July 1, 1999, the Division of Retirement
 2730 shall pay to each eligible payee of the Florida Retirement
 2731 System who retires before, on, or after such ~~that~~ date, a
 2732 supplemental retirement benefit equal to the difference between
 2733 the amount of the payee's monthly retirement benefit which would
 2734 have been payable under the Florida Retirement System Defined
 2735 Benefit System Pension Plan if not for a reduction due to the
 2736 application of s. 415(b) of the Internal Revenue Code and the
 2737 reduced monthly retirement benefit as paid to the payee. The
 2738 Preservation of Benefits Plan benefit shall be computed and
 2739 payable under the same terms and conditions and to the same
 2740 person as would have applied under the Florida Retirement System
 2741 Defined Benefit ~~pension~~ plan were it not for the federal
 2742 limitation.

2743 Section 17. Present subsections (6) through (9) of that
 2744 section 121.101, Florida Statutes, are redesignated as
 2745 subsections (4) through (7), respectively, and present
 2746 subsections (1), (3), (4), and (5) of that section are amended,
 2747 to read:

2748 121.101 Cost-of-living adjustment of benefits.—

2749 (1) The purpose of this section is to provide cost-of-
 2750 living adjustments to the monthly benefits payable to all
 2751 retired members of state-supported retirement systems.

2752 (3) Commencing July 1, 1987, the benefit of each retiree
 2753 and annuitant ~~whose effective retirement date is before July 1,~~
 2754 ~~2011,~~ shall be adjusted ~~annually~~ on each July 1 thereafter, as

2755 follows:

2756 (a) For those retirees and annuitants who have never
 2757 received a cost-of-living adjustment under this section, the
 2758 amount of the monthly benefit payable for the 12-month period
 2759 commencing on the adjustment date shall be the amount of the
 2760 member's initial benefit plus an amount equal to a percentage of
 2761 the member's initial benefit; this percentage is derived by
 2762 dividing the number of months the member has received an initial
 2763 benefit by 12, and multiplying the result by 3.

2764 (b) For those retirees and annuitants who have received a
 2765 cost-of-living adjustment under this section ~~subsection~~, the
 2766 adjusted monthly benefit shall be the amount of the monthly
 2767 benefit being received on June 30 immediately preceding the
 2768 adjustment date plus an amount equal to 3 percent of this
 2769 benefit.

2770 ~~(4) For members whose effective retirement date is on or~~
 2771 ~~after July 1, 2011, the benefit of each retiree and annuitant~~
 2772 ~~shall be adjusted annually on July 1 as follows:~~

2773 ~~(a) For those retirees and annuitants who have never~~
 2774 ~~received a cost-of-living adjustment under this subsection, the~~
 2775 ~~amount of the monthly benefit payable for the 12-month period~~
 2776 ~~commencing on the adjustment date shall be the amount of the~~
 2777 ~~member's initial benefit plus an amount equal to a percentage of~~
 2778 ~~the member's initial benefit. This percentage is derived by~~
 2779 ~~dividing the number of months the member has received an initial~~
 2780 ~~benefit by 12, and multiplying the result by the factor~~
 2781 ~~calculated pursuant to paragraph (c).~~

2782 ~~(b) For those retirees and annuitants who have received a~~

2783 ~~cost of living adjustment under this subsection, the adjusted~~
 2784 ~~monthly benefit shall be the amount of the monthly benefit being~~
 2785 ~~received on June 30 immediately preceding the adjustment date~~
 2786 ~~plus an amount determined by multiplying the benefit by the~~
 2787 ~~factor calculated pursuant to paragraph (c).~~

2788 ~~(c) The department shall calculate a cost of living factor~~
 2789 ~~for each retiree and beneficiary retiring on or after July 1,~~
 2790 ~~2011. This factor shall equal the product of 3 percent~~
 2791 ~~multiplied by the quotient of the sum of the member's service~~
 2792 ~~credit earned for service before July 1, 2011, divided by the~~
 2793 ~~sum of the member's total service credit earned.~~

2794 ~~(5) Subject to the availability of funding and the~~
 2795 ~~Legislature enacting sufficient employer contributions~~
 2796 ~~specifically for the purpose of funding the expiration of the~~
 2797 ~~cost of living adjustment specified in subsection (4), in~~
 2798 ~~accordance with s. 14, Art. X of the State Constitution, the~~
 2799 ~~cost of living adjustment formula provided for in subsection (4)~~
 2800 ~~shall expire effective June 30, 2016, and the benefit of each~~
 2801 ~~retiree and annuitant shall be adjusted on each July 1~~
 2802 ~~thereafter, as provided in subsection (3).~~

2803 Section 18. Paragraph (b) of subsection (1) of section
 2804 121.1115, Florida Statutes, is amended to read:

2805 121.1115 Purchase of retirement credit for out-of-state or
 2806 federal service.—Effective January 1, 1995, a member may
 2807 purchase creditable service for periods of public employment in
 2808 another state and receive creditable service for such periods of
 2809 employment. Service with the Federal Government, including any
 2810 active military service, may be claimed. Upon completion of each

HB 1309

2012

2811 year of service earned under the Florida Retirement System, a
 2812 member may purchase up to 1 year of retirement credit for his or
 2813 her out-of-state service, subject to the following provisions:

2814 (1) LIMITATIONS AND CONDITIONS.—To receive credit for the
 2815 out-of-state service:

2816 (b) The member must have completed a minimum of 6 ~~the~~
 2817 years of creditable service ~~required for vesting~~ under the
 2818 Florida Retirement System, excluding out-of-state service and
 2819 in-state service claimed and purchased under s. 121.1122.

2820 Section 19. Paragraph (a) of subsection (2) of section
 2821 121.1122, Florida Statutes, is amended to read:

2822 121.1122 Purchase of retirement credit for in-state public
 2823 service and in-state service in accredited nonpublic schools and
 2824 colleges, including charter schools and charter technical career
 2825 centers.—Effective January 1, 1998, a member of the Florida
 2826 Retirement System may purchase creditable service for periods of
 2827 certain public or nonpublic employment performed in this state,
 2828 as provided in this section.

2829 (2) LIMITATIONS AND CONDITIONS.—

2830 (a) A member is not eligible to receive credit for in-
 2831 state service under this section until he or she has completed 6
 2832 ~~the~~ years of creditable service ~~required for vesting~~ under the
 2833 Florida Retirement System, excluding service purchased under
 2834 this section and out-of-state service claimed and purchased
 2835 under s. 121.1115.

2836 Section 20. Subsection (1) of section 121.121, Florida
 2837 Statutes, is amended to read:

2838 121.121 Authorized leaves of absence.—

HB 1309

2012

2839 (1) A member may purchase creditable service for up to 2
 2840 work years of authorized leaves of absence, including any leaves
 2841 of absence covered under the Family Medical Leave Act, if:

2842 (a) The member has completed a minimum of 6 ~~the~~ years of
 2843 creditable service ~~required for vesting~~, excluding periods for
 2844 which a leave of absence was authorized;

2845 (b) The leave of absence is authorized in writing by the
 2846 employer of the member and approved by the administrator;

2847 (c) The member returns to active employment performing
 2848 service with a Florida Retirement System employer in a regularly
 2849 established position immediately upon termination of the leave
 2850 of absence and remains on the employer's payroll for 1 calendar
 2851 month, except that a member who retires on disability while on a
 2852 medical leave of absence shall ~~may~~ not be required to return to
 2853 employment. A member whose work year is less than 12 months and
 2854 whose leave of absence terminates between school years is
 2855 eligible to receive credit for the leave of absence as long as
 2856 ~~if~~ he or she returns to the employment of his or her employer at
 2857 the beginning of the next school year and remains on the
 2858 employer's payroll for 1 calendar month; and

2859 (d) The member makes the required contributions for
 2860 service credit during the leave of absence, which shall be 8
 2861 percent until January 1, 1975, and 9 percent thereafter of his
 2862 or her rate of monthly compensation in effect immediately prior
 2863 to ~~before~~ the commencement of such leave for each month of such
 2864 period, plus 4 percent interest until July 1, 1975, and 6.5
 2865 percent interest thereafter on such contributions, compounded
 2866 annually each June 30 from the due date of the contribution to

2867 date of payment.

2868 ~~1.~~ Effective July 1, 1980, any leave of absence purchased
 2869 pursuant to this section shall be ~~is~~ at the contribution rates
 2870 specified in s. 121.071 ~~or s. 121.71~~ in effect at the time the
 2871 leave is granted for the class of membership from which the
 2872 leave of absence was granted; however, any member who purchased
 2873 leave-of-absence credit prior to ~~before~~ July 1, 1980, for a
 2874 leave of absence from a position in a class other than the
 2875 regular membership class, may pay the appropriate additional
 2876 contributions plus compound interest thereon and receive
 2877 creditable service for such leave of absence in the membership
 2878 class from which the member was granted the leave of absence.

2879 ~~2.~~ ~~Effective July 1, 2011, any leave of absence purchased~~
 2880 ~~by the member pursuant to this section shall be at the employer~~
 2881 ~~and employee contribution rates specified in s. 121.71 in effect~~
 2882 ~~during the leave for the class of membership from which the~~
 2883 ~~leave of absence was granted.~~

2884 Section 21. Section 121.125, Florida Statutes, is amended
 2885 to read:

2886 121.125 Credit for workers' compensation payment periods.-
 2887 A member of the retirement system created by this chapter who
 2888 has been eligible or becomes eligible to receive workers'
 2889 compensation payments for an injury or illness occurring during
 2890 his or her employment while a member of any state retirement
 2891 system shall, upon return to active employment with a covered
 2892 employer for 1 calendar month or upon approval for disability
 2893 retirement in accordance with s. 121.091(4), receive full
 2894 retirement credit for the period prior to such return to active

2895 employment or disability retirement for which the workers'
 2896 compensation payments were received. However, no a member may
 2897 ~~not~~ receive retirement credit for any such period occurring
 2898 after the earlier of the date of maximum medical improvement as
 2899 defined in s. 440.02 or the date termination has occurred as
 2900 defined in s. 121.021(39). The employer of record at the time of
 2901 the workers' compensation injury or illness shall make the
 2902 required ~~employer and employee~~ retirement contributions based on
 2903 the member's rate of monthly compensation immediately prior to
 2904 his or her receiving workers' compensation payments for
 2905 retirement credit received by the member. ~~The employer of record~~
 2906 ~~at the time of the workers' compensation injury or illness shall~~
 2907 ~~be assessed by the division a penalty of 1 percent of the~~
 2908 ~~contributions on all contributions not paid on the first payroll~~
 2909 ~~report after the member becomes eligible to receive credit. This~~
 2910 ~~delinquent assessment may not be waived.~~

2911 Section 22. Section 121.161, Florida Statutes, is
 2912 reenacted to read:

2913 121.161 References to other laws include amendments.—
 2914 References in this chapter to state or federal laws or
 2915 agreements are intended to include such laws as they now exist
 2916 or may hereafter be amended.

2917 Section 23. Section 121.182, Florida Statutes, is amended
 2918 to read:

2919 121.182 Retirement annuities authorized for city and
 2920 county personnel.—Cities ~~Municipalities~~ and counties are
 2921 authorized to purchase annuities for all city ~~municipal~~ and
 2922 county personnel with 25 or more years of creditable service who

2923 have reached age 50 and have applied for retirement under the
 2924 Florida Retirement System. No such annuity shall provide for
 2925 more than the total difference in retirement income between the
 2926 retirement benefit based on average monthly compensation and
 2927 creditable service as of the member's early retirement date and
 2928 the early retirement benefit. Cities ~~Municipalities~~ and counties
 2929 may also purchase annuities for members of the Florida
 2930 Retirement System who have out-of-state service in another state
 2931 or country which is documented as valid by the appropriate city
 2932 or county. Such annuities may be based on no more than 5 years
 2933 of out-of-state service and may equal, but not exceed, the
 2934 benefits that would be payable under the Florida Retirement
 2935 System if credit for out-of-state service was authorized under
 2936 that system. Cities ~~Municipalities~~ and counties are authorized
 2937 to invest funds, purchase annuities, or provide local
 2938 supplemental retirement programs for purposes of providing
 2939 annuities for city or county personnel. All retirement annuities
 2940 shall comply with s. 14, Art. X of the State Constitution.

2941 Section 24. Paragraphs (g) and (i) of subsection (3) and
 2942 subsections (4) and (5) of section 121.35, Florida Statutes, are
 2943 amended to read:

2944 121.35 Optional retirement program for the State
 2945 University System.—

2946 (3) ELECTION OF OPTIONAL PROGRAM.—

2947 (g) An eligible employee who is a member of the Florida
 2948 Retirement System at the time of election to participate in the
 2949 optional retirement program shall retain all retirement service
 2950 credit earned under the Florida Retirement System, at the rate

2951 earned. No additional service credit in the Florida Retirement
 2952 System shall ~~may not~~ be earned while the employee participates
 2953 in the optional program, nor shall ~~and~~ the employee be ~~is not~~
 2954 eligible for disability retirement under the Florida Retirement
 2955 System. An eligible employee may transfer from the Florida
 2956 Retirement System to his or her accounts under the State
 2957 University System Optional Retirement Program a sum representing
 2958 the present value of the employee's accumulated benefit
 2959 obligation under the defined benefit program of the Florida
 2960 Retirement System ~~pension plan~~ for any service credit accrued
 2961 from the employee's first eligible transfer date to the optional
 2962 retirement program through the actual date of such transfer, if
 2963 such service credit was earned in the period from July 1, 1984,
 2964 through December 31, 1992. The present value of the employee's
 2965 accumulated benefit obligation shall be calculated as described
 2966 in s. 121.4501(3) (c)2. Upon such transfer, all such service
 2967 credit previously earned under the defined benefit program of
 2968 the Florida Retirement System ~~pension plan~~ during this period
 2969 shall be ~~is~~ nullified for purposes of entitlement to a future
 2970 benefit under the defined benefit program of the Florida
 2971 Retirement System ~~pension plan~~.

2972 (i) Effective January 1, 2008, through December 31, 2008,
 2973 except for an employee who is a mandatory participant of the
 2974 State University System Optional Retirement Program, an employee
 2975 who has elected to participate in the State University System
 2976 Optional Retirement Program shall have one opportunity, at the
 2977 employee's discretion, to choose to transfer from this program
 2978 to the defined benefit program of the Florida Retirement System

2979 ~~Pension Plan~~ or to the Public Employee Optional Retirement
 2980 Program investment plan, subject to the terms of the applicable
 2981 contracts of the State University System Optional Retirement
 2982 Program.

2983 1. If the employee chooses to move to the Public Employee
 2984 Optional Retirement Program investment plan, any contributions,
 2985 interest, and earnings creditable to the employee under the
 2986 State University System Optional Retirement Program shall ~~must~~
 2987 be retained by the employee in the State University System
 2988 Optional Retirement Program, and the applicable provisions of s.
 2989 121.4501(4) shall govern the election.

2990 2. If the employee chooses to move to the defined benefit
 2991 program pension plan of the Florida Retirement System, the
 2992 employee shall receive service credit equal to his or her years
 2993 of service under the State University System Optional Retirement
 2994 Program.

2995 a. The cost for such credit shall be ~~must be in~~ an amount
 2996 representing the actuarial accrued liability for the affected
 2997 period of service. The cost shall ~~must~~ be calculated using the
 2998 discount rate and other relevant actuarial assumptions that were
 2999 used to value the Florida Retirement System Defined Benefit
 3000 ~~Pension~~ Plan liabilities in the most recent actuarial valuation.
 3001 The calculation shall ~~must~~ include any service already
 3002 maintained under the defined benefit pension plan in addition to
 3003 the years under the State University System Optional Retirement
 3004 Program. The actuarial accrued liability of any service already
 3005 maintained under the defined benefit pension plan shall ~~must~~ be
 3006 applied as a credit to total cost resulting from the

HB 1309

2012

3007 calculation. The division shall ~~must~~ ensure that the transfer
 3008 sum is prepared using a formula and methodology certified by an
 3009 enrolled actuary.

3010 b. The employee must transfer from his or her State
 3011 University System Optional Retirement Program account, and from
 3012 other employee moneys as necessary, a sum representing the
 3013 actuarial accrued liability immediately after ~~following~~ the time
 3014 of such movement, determined assuming that attained service
 3015 equals the sum of service in the defined benefit program ~~pension~~
 3016 ~~plan~~ and service in the State University System Optional
 3017 Retirement Program.

3018 (4) CONTRIBUTIONS.—

3019 (a) ~~1.~~ Through June 30, 2001, each employer shall
 3020 contribute on behalf of each participant in ~~member of~~ the
 3021 optional retirement program an amount equal to the normal cost
 3022 portion of the employer retirement contribution which would be
 3023 required if the participant ~~employee~~ were a regular member of
 3024 the Florida Retirement System defined benefit program ~~System~~
 3025 ~~Pension Plan~~, plus the portion of the contribution rate required
 3026 in s. 112.363(8) that would otherwise be assigned to the Retiree
 3027 Health Insurance Subsidy Trust Fund.

3028 ~~2.~~ Effective July 1, 2001, ~~through June 30, 2011,~~ each
 3029 employer shall contribute on behalf of each ~~member of~~
 3030 participant in the optional ~~retirement~~ program an amount equal
 3031 to 10.43 percent of the participant's ~~employee's~~ gross monthly
 3032 compensation.

3033 ~~3.~~ ~~Effective July 1, 2011,~~ each member of the optional
 3034 ~~retirement program shall contribute an amount equal to the~~

3035 ~~employee contribution required in s. 121.71(3). The employer~~
 3036 ~~shall contribute on behalf of each such member an amount equal~~
 3037 ~~to the difference between 10.43 percent of the employee's gross~~
 3038 ~~monthly compensation and the amount equal to the employee's~~
 3039 ~~required contribution based on the employee's gross monthly~~
 3040 ~~compensation.~~

3041 4. The department shall deduct an amount approved by the
 3042 Legislature to provide for the administration of this program.
 3043 The payment of the contributions to the optional program which
 3044 is required by this paragraph for each participant, including
 3045 ~~contributions by the employee,~~ shall be made by the employer to
 3046 the department, which shall forward the contributions to the
 3047 designated company or companies contracting for payment of
 3048 benefits for the participant under ~~members of~~ the program.
 3049 However, such contributions paid on behalf of an employee
 3050 described in paragraph (3)(c) shall ~~may~~ not be forwarded to a
 3051 company and shall ~~do~~ not begin to accrue interest until the
 3052 employee has executed a contract and notified the department.
 3053 ~~The department shall deduct an amount from the contributions to~~
 3054 ~~provide for the administration of this program.~~

3055 (b) Each employer shall contribute on behalf of each
 3056 participant in ~~member of~~ the optional retirement program an
 3057 amount equal to the unfunded actuarial accrued liability portion
 3058 of the employer contribution which would be required for members
 3059 of the Florida Retirement System. This contribution shall be
 3060 paid to the department for transfer to the Florida Retirement
 3061 System Trust Fund.

3062 (c) An Optional Retirement Program Trust Fund shall be

HB 1309

2012

3063 established in the State Treasury and administered by the
3064 department to make payments to the provider companies on behalf
3065 of the optional retirement program participants ~~members~~, and to
3066 transfer the unfunded liability portion of the state optional
3067 retirement program contributions to the Florida Retirement
3068 System Trust Fund.

3069 (d) Contributions required for social security by each
3070 employer and each participant ~~employee~~, in the amount required
3071 for social security coverage as now or hereafter may be provided
3072 by the federal Social Security Act, shall be maintained for each
3073 participant in ~~member of~~ the optional retirement program and
3074 shall be ~~are~~ in addition to the retirement contributions
3075 specified in this subsection.

3076 (e) Each participant in ~~member of~~ the optional retirement
3077 program who has executed a contract may contribute by way of
3078 salary reduction or deduction a percentage amount of the
3079 participant's ~~employee's~~ gross compensation not to exceed the
3080 percentage amount contributed by the employer to the optional
3081 program, but in no case may such contribution ~~may not~~ exceed
3082 federal limitations. Payment of the participant's ~~employee's~~
3083 contributions shall be made by the financial officer of the
3084 employer to the division which shall forward the contributions
3085 to the designated company or companies contracting for payment
3086 of benefits for the participant under ~~members of~~ the program. A
3087 participant ~~member~~ may not make, through salary reduction, any
3088 voluntary employee contributions to any other plan under s.
3089 403(b) of the Internal Revenue Code, with the exception of a
3090 custodial account under s. 403(b) (7) of the Internal Revenue

HB 1309

2012

3091 Code, until he or she has made an employee contribution to his
 3092 or her optional program equal to the employer contribution. A
 3093 participant ~~An employee~~ is responsible for monitoring his or her
 3094 individual tax-deferred income to ensure he or she does not
 3095 exceed the maximum deferral amounts permitted under the Internal
 3096 Revenue Code.

3097 (f) The Optional Retirement Trust Fund may accept for
 3098 deposit into participant ~~member~~ contracts contributions in the
 3099 form of rollovers or direct trustee-to-trustee transfers by or
 3100 on behalf of participants ~~members~~ who are reasonably determined
 3101 by the department to be eligible for rollover or transfer to the
 3102 optional retirement program pursuant to the Internal Revenue
 3103 Code, if such contributions are made in accordance with rules
 3104 adopted by the department. Such contributions shall be accounted
 3105 for in accordance with any applicable requirements of the
 3106 Internal Revenue Code and ~~department~~ rules of the department.

3107 (g) Effective July 1, 2008, for purposes of paragraph (a)
 3108 and notwithstanding s. 121.021(22)(b)1., the term "
 3109 participant's ~~employee's~~ gross monthly compensation" includes
 3110 salary payments made to eligible clinical faculty from a state
 3111 university using funds provided by a faculty practice plan
 3112 authorized by the Board of Governors of the State University
 3113 System if:

3114 1. There is not any ~~no~~ employer contribution from the
 3115 state university to any other retirement program with respect to
 3116 such salary payments; and

3117 2. The employer contribution on behalf of the participant
 3118 in a ~~member~~ of the optional retirement program with respect to

HB 1309

2012

3119 such salary payments is made using funds provided by the faculty
3120 practice plan.

3121 (5) BENEFITS.—

3122 (a) Benefits are payable under the optional retirement
3123 program only to vested participants ~~members participating~~ in the
3124 program, or their beneficiaries as designated by the participant
3125 ~~member~~ in the contract with a provider company, and such
3126 benefits shall be paid only by the designated company in
3127 accordance with s. 403(b) of the Internal Revenue Code and the
3128 terms of the annuity contract or contracts applicable to the
3129 participant ~~member~~. Benefits accrue in individual accounts that
3130 are participant-directed ~~member-directed~~, portable, and funded
3131 by employer ~~and employee~~ contributions and the earnings thereon.
3132 The participant ~~member~~ must be terminated ~~for 3 calendar months~~
3133 from all employment relationships with all Florida Retirement
3134 System employers, as provided in s. 121.021(39), to begin
3135 receiving the employer-funded benefit. Benefits funded by
3136 employer ~~and employee~~ contributions are payable in accordance
3137 with the following terms and conditions:

3138 1. Benefits shall be paid only to a participant
3139 ~~participating member~~, to his or her beneficiaries, or to his or
3140 her estate, as designated by the participant ~~member~~.

3141 2. Benefits shall be paid by the provider company or
3142 companies in accordance with the law, the provisions of the
3143 contract, and any applicable department rule or policy.

3144 3. In the event of a participant's ~~member's~~ death, moneys
3145 accumulated by, or on behalf of, the participant ~~member~~, less
3146 withholding taxes remitted to the Internal Revenue Service, if

HB 1309

2012

3147 any, shall be distributed to the participant's ~~member's~~
3148 designated beneficiary or beneficiaries, or to the participant's
3149 ~~member's~~ estate, as if the participant ~~member~~ retired on the
3150 date of death, as provided in paragraph (c) ~~(d)~~. No other death
3151 benefits are available to survivors of participants ~~members~~
3152 under the optional retirement program except for such benefits,
3153 or coverage for such benefits, as are separately afforded by the
3154 employer, at the employer's discretion.

3155 ~~(b) Benefits, including employee contributions, are not~~
3156 ~~payable for employee hardships, unforeseeable emergencies,~~
3157 ~~loans, medical expenses, educational expenses, purchase of a~~
3158 ~~principal residence, payments necessary to prevent eviction or~~
3159 ~~foreclosure on an employee's principal residence, or any other~~
3160 ~~reason before termination from all employment relationships with~~
3161 ~~participating employers for 3 calendar months.~~

3162 ~~(b)(e)~~ Upon receipt by the provider company of a properly
3163 executed application for distribution of benefits, the total
3164 accumulated benefit shall be ~~is~~ payable to the participant
3165 ~~participating member~~ as:

- 3166 1. A lump-sum distribution to the participant ~~member~~;
- 3167 2. A lump-sum direct rollover distribution whereby all
3168 accrued benefits, plus interest and investment earnings, are
3169 paid from the participant's ~~member's~~ account directly to an
3170 eligible retirement plan, as defined in s. 402(c)(8)(B) of the
3171 Internal Revenue Code, on behalf of the participant ~~member~~;
- 3172 3. Periodic distributions;
- 3173 4. A partial lump-sum payment whereby a portion of the
3174 accrued benefit is paid to the participant ~~member~~ and the

HB 1309

2012

3175 remaining amount is transferred to an eligible retirement plan,
 3176 as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on
 3177 behalf of the participant ~~member~~; or

3178 5. Such other distribution options as are provided for in
 3179 the participant's ~~member's~~ optional retirement program contract.

3180 ~~(c)-(d)~~ Survivor benefits shall be ~~are~~ payable as:

3181 1. A lump-sum distribution payable to the beneficiaries or
 3182 to the deceased participant's ~~member's~~ estate;

3183 2. An eligible rollover distribution on behalf of the
 3184 surviving spouse of a deceased participant ~~member~~, whereby all
 3185 accrued benefits, plus interest and investment earnings, are
 3186 paid from the deceased participant's ~~member's~~ account directly
 3187 to an eligible retirement plan, as described in s. 402(c)(8)(B)
 3188 of the Internal Revenue Code, on behalf of the surviving spouse;

3189 3. Such other distribution options as are provided for in
 3190 the participant's ~~member's~~ optional retirement program contract;
 3191 or

3192 4. A partial lump-sum payment whereby a portion of the
 3193 accrued benefit is paid to the deceased participant's ~~member's~~
 3194 surviving spouse or other designated beneficiaries, less
 3195 withholding taxes remitted to the Internal Revenue Service, if
 3196 any, and the remaining amount is transferred directly to an
 3197 eligible retirement plan, as described in s. 402(c)(8)(B) of the
 3198 Internal Revenue Code, on behalf of the surviving spouse. The
 3199 proportions must be specified by the participant ~~member~~ or the
 3200 surviving beneficiary.

3201
 3202 This paragraph does not abrogate other applicable provisions of

3203 state or federal law providing payment of death benefits.

3204 (d)~~(e)~~ The benefits payable to any person under the
 3205 optional retirement program, and any contribution accumulated
 3206 under such program, shall ~~are~~ not be subject to assignment,
 3207 execution, or attachment or to any legal process whatsoever.

3208 (e)~~(f)~~ A participant ~~participating member~~ who chooses to
 3209 receive his or her benefits upon termination as defined in s.
 3210 121.021 ~~must be terminated for 3 calendar months to be eligible~~
 3211 ~~to receive benefits funded by employer and employee~~
 3212 ~~contributions. The member must notify the provider company of~~
 3213 the date he or she wishes benefits funded by ~~required~~ employer
 3214 and ~~employee~~ contributions to begin and ~~must be terminated as~~
 3215 ~~defined in s. 121.021 after the initial benefit payment or~~
 3216 ~~distribution is received.~~ Benefits may be deferred until the
 3217 participant ~~member~~ chooses to make such application.

3218 (f)~~(g)~~ Benefits funded by the participant's ~~participating~~
 3219 ~~member's~~ voluntary personal contributions may be paid out at any
 3220 time and in any form within the limits provided in the contract
 3221 between the participant ~~member~~ and his or her ~~the~~ provider
 3222 company. The participant ~~member~~ shall notify the provider
 3223 company regarding the date and provisions under which he or she
 3224 wants to receive the employee-funded portion of the plan.

3225 (g)~~(h)~~ For purposes of this section, "retiree" means a
 3226 former participant ~~participating member~~ of the optional
 3227 retirement program who has terminated employment and has taken a
 3228 distribution as provided in this subsection, except for a
 3229 mandatory distribution of a de minimis account authorized by the
 3230 department.

3231 Section 25. Section 121.355, Florida Statutes, is amended
 3232 to read:

3233 121.355 Community College Optional Retirement Program and
 3234 State University System Optional Retirement Program member
 3235 transfer.—Effective January 1, 2009, through December 31, 2009,
 3236 an employee who is a former participant in ~~member of~~ the
 3237 Community College Optional Retirement Program or the State
 3238 University System Optional Retirement Program and present
 3239 mandatory participant in ~~member of~~ the Florida Retirement System
 3240 Defined Benefit System Pension Plan may receive service credit
 3241 equal to his or her years of service under the Community College
 3242 Optional Retirement Program or the State University System
 3243 Optional Retirement Program under the following conditions:

3244 (1) The cost for such credit shall be an amount
 3245 representing ~~must represent~~ the actuarial accrued liability for
 3246 the affected period of service. The cost shall be calculated
 3247 using the discount rate and other relevant actuarial assumptions
 3248 that were used to value the Florida Retirement System Defined
 3249 Benefit System Pension Plan liabilities in the most recent
 3250 actuarial valuation. The calculation shall ~~must~~ include any
 3251 service already maintained under the defined benefit ~~pension~~
 3252 plan in addition to the years under the Community College
 3253 Optional Retirement Program or the State University System
 3254 Optional Retirement Program. The actuarial accrued liability of
 3255 any service already maintained under the defined benefit ~~pension~~
 3256 plan shall be applied as a credit to total cost resulting from
 3257 the calculation. The division shall ensure that the transfer sum
 3258 is prepared using a formula and methodology certified by an

3259 enrolled actuary.

3260 (2) The employee must transfer from his or her Community
 3261 College Optional Retirement Program account or State University
 3262 System Optional Retirement Program account, subject to the terms
 3263 of the applicable optional retirement program contract, and from
 3264 other employee moneys as necessary, a sum representing the
 3265 actuarial accrued liability immediately after ~~following~~ the time
 3266 of such movement, determined assuming that attained service
 3267 equals the sum of service in the defined benefit program ~~pension~~
 3268 ~~plan~~ and service in the Community College Optional Retirement
 3269 Program or State University System Optional Retirement Program.

3270 (3) The employee may not receive service credit for a
 3271 period of mandatory participation in the State University
 3272 Optional Retirement Program or for a period for which a
 3273 distribution was received from the Community College Optional
 3274 Retirement Program or State University System Optional
 3275 Retirement Program.

3276 Section 26. Section 121.4501, Florida Statutes, is amended
 3277 to read:

3278 121.4501 Public Employee Optional Retirement Program
 3279 ~~Florida Retirement System Investment Plan.~~

3280 (1) The Trustees of the State Board of Administration
 3281 shall establish an optional ~~a~~ defined contribution retirement
 3282 program ~~called the "Florida Retirement System Investment Plan"~~
 3283 ~~or "investment plan"~~ for members of the Florida Retirement
 3284 System under which retirement benefits will be provided for
 3285 eligible employees who elect to participate in the program. The
 3286 ~~retirement~~ benefits to be provided for or on behalf of

3287 participants in such optional retirement program shall be
 3288 provided through employee-directed ~~member-directed~~ investments,
 3289 in accordance with s. 401(a) of the Internal Revenue Code and
 3290 its related regulations. The employers ~~employer and employee~~
 3291 shall contribute ~~make contributions~~, as provided in this
 3292 section, ~~and~~ ss. 121.571, and 121.71~~7~~ to the Public Employee
 3293 Optional Retirement Program ~~Florida Retirement System Investment~~
 3294 ~~Plan~~ Trust Fund toward the funding of such optional benefits.

3295 (2) DEFINITIONS.—As used in this part, the term:

3296 (a) "Approved provider" or "provider" means a private
 3297 sector company that is selected and approved by the state board
 3298 to offer one or more investment products or services to the
 3299 optional retirement program ~~investment plan~~. The term includes a
 3300 bundled provider that offers participants ~~members~~ a range of
 3301 individually allocated or unallocated investment products and
 3302 may offer a range of administrative and customer services, which
 3303 may include accounting and administration of individual
 3304 participant ~~member~~ benefits and contributions; individual
 3305 participant ~~member~~ recordkeeping; asset purchase, control, and
 3306 safekeeping; direct execution of the participant's ~~member's~~
 3307 instructions as to asset and contribution allocation;
 3308 calculation of daily net asset values; direct access to
 3309 participant ~~member~~-account information; periodic reporting to
 3310 participants ~~members~~, at least quarterly, on account balances
 3311 and transactions; guidance, advice, and allocation services
 3312 directly relating to the provider's own investment options or
 3313 products, but only if the bundled provider complies with the
 3314 standard of care of s. 404(a) (1) (A-B) of the Employee Retirement

HB 1309

2012

3315 Income Security Act of 1974 (ERISA)⁷ and if providing such
3316 guidance, advice, or allocation services does not constitute a
3317 prohibited transaction under s. 4975(c)(1) of the Internal
3318 Revenue Code or s. 406 of ERISA, notwithstanding that such
3319 prohibited transaction provisions do not apply to the optional
3320 retirement program; a broad array of distribution options; asset
3321 allocation; and retirement counseling and education. Private
3322 sector companies include investment management companies,
3323 insurance companies, depositories, and mutual fund companies.

3324 (b) "Average monthly compensation" means one-twelfth of
3325 average final compensation as defined in s. 121.021.

3326 (c) "Covered employment" means employment in a regularly
3327 established position as defined in s. 121.021.

3328 (d) "Defined benefit program" means the defined benefit
3329 program of the Florida Retirement System administered under part
3330 I of this chapter.

3331 (e) "Division" means the Division of Retirement within the
3332 department.

3333 (f)~~(d)~~ "Electronic means" means by telephone, if the
3334 required information is received on a recorded line, or through
3335 Internet access, if the required information is captured online.

3336 (g)~~(e)~~ "Eligible employee" means an officer or employee,
3337 as defined in s. 121.021, who:

3338 1. Is a member of, or is eligible for membership in, the
3339 Florida Retirement System, including any renewed member of the
3340 Florida Retirement System initially enrolled before July 1,
3341 2010; or

3342 2. Participates in, or is eligible to participate in, the

HB 1309

2012

3343 Senior Management Service Optional Annuity Program as
 3344 established under s. 121.055(6), the State Community College
 3345 System Optional Retirement Program as established under s.
 3346 121.051(2)(c), or the State University System Optional
 3347 Retirement Program established under s. 121.35.

3348
 3349 The term does not include any member participating in the
 3350 Deferred Retirement Option Program established under s.
 3351 121.091(13), a retiree of a state-administered retirement system
 3352 initially reemployed on or after July 1, 2010, or a mandatory
 3353 participant of the State University System Optional Retirement
 3354 Program established under s. 121.35.

3355 (h)~~(f)~~ "Employer" means an employer, as defined in s.
 3356 121.021, of an eligible employee.

3357 (i)~~(g)~~ "Optional retirement program" or "optional program"
 3358 "~~Florida Retirement System Investment Plan~~" or "~~investment plan~~"
 3359 means the Public Employee Optional Retirement Program defined
 3360 ~~contribution program~~ established under this part.

3361 ~~(h) "Florida Retirement System Pension Plan" or "pension~~
 3362 ~~plan" means the defined benefit program of the Florida~~
 3363 ~~Retirement System administered under part I of this chapter.~~

3364 (j)~~(i)~~ "Participant" "~~Member~~" or "~~employee~~" means an
 3365 eligible employee who enrolls in the investment plan optional
 3366 program as provided in subsection (4) ~~or~~ a terminated Deferred
 3367 Retirement Option Program participant ~~member~~ as described in
 3368 subsection (21), ~~or a beneficiary or alternate payee of a member~~
 3369 ~~or employee.~~

3370 ~~(j) "Member contributions" or "employee contributions"~~

3371 ~~means the sum of all amounts deducted from the salary of a~~
 3372 ~~member by his or her employer in accordance with s. 121.71(3)~~
 3373 ~~and credited to his or her individual account in the investment~~
 3374 ~~plan, plus any earnings on such amounts and any contributions~~
 3375 ~~specified in paragraph (5)(c).~~

3376 (k) "Retiree" means a former participant member of the
 3377 optional retirement program investment plan who has terminated
 3378 employment and has taken a distribution ~~of vested employee or~~
 3379 ~~employer contributions~~ as provided in s. 121.591, except for a
 3380 mandatory distribution of a de minimis account authorized by the
 3381 state board ~~or a minimum required distribution provided by s.~~
 3382 ~~401(a)(9) of the Internal Revenue Code.~~

3383 (l) "Vested" or "vesting" means the guarantee that a
 3384 participant member is eligible to receive a retirement benefit
 3385 upon completion of the required years of service under the
 3386 optional retirement program investment plan.

3387 (3) ELIGIBILITY; RETIREMENT SERVICE CREDIT; TRANSFER OF
 3388 BENEFITS.—

3389 (a) Participation in the Public Employee Optional
 3390 Retirement Program is limited to eligible employees.
 3391 Participation in the optional retirement program is in lieu of
 3392 participation in the defined benefit program of the Florida
 3393 Retirement System.

3394 (b) ~~(a)~~ An eligible employee who is defined benefit
 3395 retirement program of the Florida Retirement System ~~employed in~~
 3396 ~~a regularly established position by a state employer on June 1,~~
 3397 ~~2002; by a district school board employer on September 1, 2002;~~
 3398 ~~or by a local employer on December 1, 2002, and who is a member~~

3399 of the ~~pension plan~~ at the time of his or her election to
 3400 participate in the Public Employee Optional Retirement Program
 3401 ~~investment plan~~ shall retain all retirement service credit
 3402 earned under the defined benefit retirement program of the
 3403 Florida Retirement System ~~pension plan~~ as credited under the
 3404 system and shall be ~~is~~ entitled to a deferred benefit upon
 3405 termination, if eligible under the system. However, election to
 3406 participate ~~enroll~~ in the Public Employee Optional Retirement
 3407 Program ~~investment plan~~ terminates the active membership of the
 3408 employee in the defined benefit program of the Florida
 3409 Retirement System ~~pension plan~~, and the service of a participant
 3410 ~~member~~ in the Public Employee Optional Retirement Program shall
 3411 ~~investment plan~~ is not be creditable under the ~~pension plan~~
 3412 defined benefit retirement program of the Florida Retirement
 3413 System for purposes of benefit accrual but shall be credited ~~is~~
 3414 ~~creditable~~ for purposes of vesting.

3415 (c)1. ~~(b)~~ Notwithstanding paragraph (b), ~~each (a)~~, an
 3416 eligible employee who elects to participate in the Public
 3417 Employee Optional Retirement Program ~~investment plan~~ and
 3418 establishes one or more individual participant ~~member~~ accounts
 3419 under the optional program may elect to transfer to the optional
 3420 program ~~investment plan~~ a sum representing the present value of
 3421 the employee's accumulated benefit obligation under the defined
 3422 benefit retirement program of the Florida Retirement System
 3423 ~~pension plan~~. Upon such transfer, all service credit previously
 3424 earned under the defined benefit program of the Florida
 3425 Retirement System shall be ~~pension plan~~ is nullified for
 3426 purposes of entitlement to a future benefit under the defined

HB 1309

2012

3427 benefit program of the Florida Retirement System ~~pension plan~~. A
3428 participant is precluded from transferring ~~member may not~~
3429 ~~transfer~~ the accumulated benefit obligation balance from the
3430 defined benefit program upon the expiration of the ~~pension plan~~
3431 ~~after the time period afforded to enroll for enrolling~~ in the
3432 optional program ~~investment plan has expired~~.

3433 ~~2.1.~~ For purposes of this subsection, the present value of
3434 the member's accumulated benefit obligation is based upon the
3435 member's estimated creditable service and estimated average
3436 final compensation under the defined benefit program ~~pension~~
3437 ~~plan~~, subject to recomputation under subparagraph 3. 2. For
3438 state employees enrolling under subparagraph (4)(a)1., initial
3439 estimates will ~~shall~~ be based upon creditable service and
3440 average final compensation as of midnight on June 30, 2002; for
3441 district school board employees enrolling under subparagraph
3442 (4)(b)1., initial estimates will ~~shall~~ be based upon creditable
3443 service and average final compensation as of midnight on
3444 September 30, 2002; and for local government employees enrolling
3445 under subparagraph (4)(c)1., initial estimates will ~~shall~~ be
3446 based upon creditable service and average final compensation as
3447 of midnight on December 31, 2002. The dates respectively
3448 specified above shall be construed as ~~are~~ the "estimate date"
3449 for these employees. The actuarial present value of the
3450 employee's accumulated benefit obligation shall be based on the
3451 following:

3452 a. The discount rate and other relevant actuarial
3453 assumptions used to value the Florida Retirement System Trust
3454 Fund at the time the amount to be transferred is determined,

3455 consistent with the factors provided in sub-subparagraphs b. and
 3456 c.

3457 b. A benefit commencement age, based on the member's
 3458 estimated creditable service as of the estimate date.

3459 ~~e. Except as provided under sub-subparagraph d., for a~~
 3460 ~~member initially enrolled:~~

3461 ~~(I) Before July 1, 2011, The benefit commencement age~~
 3462 ~~shall be is~~ the younger of the following, but ~~shall~~ may not be
 3463 younger than the member's age as of the estimate date:

3464 ~~(I)(A) Age 62; or~~

3465 ~~(II)(B) The age the member would attain if the member~~
 3466 ~~completed 30 years of service with an employer, assuming the~~
 3467 ~~member worked continuously from the estimate date, and~~
 3468 ~~disregarding any vesting requirement that would otherwise apply~~
 3469 ~~under the defined benefit program of the Florida Retirement~~
 3470 ~~System pension plan.~~

3471 ~~(II) On or after July 1, 2011, the benefit commencement~~
 3472 ~~age is the younger of the following, but may not be younger than~~
 3473 ~~the member's age as of the estimate date:~~

3474 ~~(A) Age 65; or~~

3475 ~~(B) The age the member would attain if the member~~
 3476 ~~completed 33 years of service with an employer, assuming the~~
 3477 ~~member worked continuously from the estimate date, and~~
 3478 ~~disregarding any vesting requirement that would otherwise apply~~
 3479 ~~under the pension plan.~~

3480 c.d. For members of the Special Risk Class and for members
 3481 of the Special Risk Administrative Support Class entitled to
 3482 retain ~~the~~ special risk normal retirement date:

3483 ~~(I) Initially enrolled before July 1, 2011,~~ the benefit
 3484 commencement age shall be ~~is~~ the younger of the following, but
 3485 shall ~~may~~ not be younger than the member's age as of the
 3486 estimate date:

3487 (I)-(A) Age 55; or

3488 (II)-(B) The age the member would attain if the member
 3489 completed 25 years of service with an employer, assuming the
 3490 member worked continuously from the estimate date, and
 3491 disregarding any vesting requirement that would otherwise apply
 3492 under the defined benefit program of the Florida Retirement
 3493 System pension plan.

3494 ~~(II) Initially enrolled on or after July 1, 2011,~~ the
 3495 benefit commencement age ~~is~~ the younger of the following, but
 3496 ~~may not be younger than the member's age as of the estimate~~
 3497 ~~date:~~

3498 ~~(A) Age 60; or~~

3499 ~~(B) The age the member would attain if the member~~
 3500 ~~completed 30 years of service with an employer, assuming the~~
 3501 ~~member worked continuously from the estimate date, and~~
 3502 ~~disregarding any vesting requirement that would otherwise apply~~
 3503 ~~under the pension plan.~~

3504 d.e. The calculation shall ~~must~~ disregard vesting
 3505 requirements and early retirement reduction factors that would
 3506 otherwise apply under the defined benefit retirement program
 3507 pension plan.

3508 3.2. For each participant member who elects to transfer
 3509 moneys from the defined benefit program pension plan to his or
 3510 her account in the optional program investment plan, the

HB 1309

2012

3511 division shall recompute the amount transferred under
3512 subparagraph 2. ~~not later than 1. within~~ 60 days after the
3513 actual transfer of funds based upon the participant's ~~member's~~
3514 actual creditable service and actual final average compensation
3515 as of the initial date of participation in the optional program
3516 ~~investment plan~~. If the recomputed amount differs from the
3517 amount transferred under subparagraph 2. by \$10 or more, the
3518 division shall:

3519 a. Transfer, or cause to be transferred, from the Florida
3520 Retirement System Trust Fund to the participant's ~~member's~~
3521 account in the optional program the excess, if any, of the
3522 recomputed amount over the previously transferred amount
3523 together with interest from the initial date of transfer to the
3524 date of transfer under this subparagraph, based upon ~~the~~
3525 effective annual interest equal to the assumed return on the
3526 actuarial investment which was used in the most recent actuarial
3527 valuation of the system, compounded annually.

3528 b. Transfer, or cause to be transferred, from the
3529 participant's ~~member's~~ account to the Florida Retirement System
3530 Trust Fund the excess, if any, of the previously transferred
3531 amount over the recomputed amount, together with interest from
3532 the initial date of transfer to the date of transfer under this
3533 subparagraph, based upon 6 percent effective annual interest,
3534 compounded annually, pro rata based on the participant's
3535 ~~member's~~ allocation plan.

3536 ~~3. If contribution adjustments are made as a result of~~
3537 ~~employer errors or corrections, including plan corrections,~~
3538 ~~following recomputation of the amount transferred under~~

HB 1309

2012

3539 ~~subparagraph 1., the member is entitled to the additional~~
3540 ~~contributions or is responsible for returning any excess~~
3541 ~~contributions resulting from the correction. However, any return~~
3542 ~~of such erroneous excess pretax contribution by the plan must be~~
3543 ~~made within the period allowed by the Internal Revenue Service.~~
3544 ~~The present value of the member's accumulated benefit obligation~~
3545 ~~shall not be recalculated.~~

3546 4. As directed by the participant member, the ~~state~~ board
3547 shall transfer or cause to be transferred the appropriate
3548 amounts to the designated accounts. The board shall establish
3549 transfer procedures by rule, but the actual transfer shall not
3550 be later than ~~within~~ 30 days after the effective date of the
3551 member's participation in the optional program investment plan
3552 unless the major financial markets for securities available for
3553 a transfer are seriously disrupted by an unforeseen event which
3554 also ~~that~~ causes the suspension of trading on any national
3555 securities exchange in the country where the securities were
3556 issued. In that event, such ~~the~~ 30-day period of time may be
3557 extended by a resolution of the trustees ~~state board~~. Transfers
3558 are not commissionable or subject to other fees and may be in
3559 the form of securities or cash, as determined by the state
3560 board. Such securities shall be ~~are~~ valued as of the date of
3561 receipt in the participant's ~~member's~~ account.

3562 5. If the ~~state~~ board or the division receives
3563 notification from the United States Internal Revenue Service
3564 that this paragraph or any portion of this paragraph will cause
3565 the retirement system, or a portion thereof, to be disqualified
3566 for tax purposes under the Internal Revenue Code, then the

3567 | portion that will cause the disqualification does not apply.
 3568 | Upon such notice, the state board and the division shall notify
 3569 | the presiding officers of the Legislature.

3570 | (4) PARTICIPATION; ENROLLMENT.—

3571 | (a)1. With respect to an eligible employee who is employed
 3572 | in a regularly established position on June 1, 2002, by a state
 3573 | employer:

3574 | a. Any such employee may elect to participate in the
 3575 | Public Employee Optional Retirement Program investment plan in
 3576 | lieu of retaining his or her membership in the defined benefit
 3577 | program of the Florida Retirement System pension plan. The
 3578 | election must be made in writing or by electronic means and must
 3579 | be filed with the third-party administrator by August 31, 2002,
 3580 | or, in the case of an active employee who is on a leave of
 3581 | absence on April 1, 2002, by the last business day of the 5th
 3582 | month after ~~following~~ the month the leave of absence concludes.
 3583 | This election is irrevocable, except as provided in paragraph
 3584 | (e) ~~(g)~~. Upon making such election, the employee shall be
 3585 | enrolled as a participant member of the Public Employee Optional
 3586 | Retirement Program investment plan, the employee's membership in
 3587 | the Florida Retirement System shall be ~~is~~ governed by the
 3588 | provisions of this part, and the employee's membership in the
 3589 | defined benefit program of the Florida Retirement System shall
 3590 | terminate ~~pension plan terminates~~. The employee's enrollment in
 3591 | the Public Employee Optional Retirement Program shall be
 3592 | ~~investment plan is~~ effective the first day of the month for
 3593 | which a full month's employer contribution is made to the
 3594 | optional program investment plan.

HB 1309

2012

3595 b. Any such employee who fails to elect to participate in
3596 the Public Employee Optional Retirement Program ~~investment plan~~
3597 within the prescribed time period is deemed to have elected to
3598 retain membership in the defined benefit program of the Florida
3599 Retirement System ~~pension plan~~, and the employee's option to
3600 elect to participate in the optional program ~~investment plan~~ is
3601 forfeited.

3602 2. With respect to employees who become eligible to
3603 participate in the Public Employee Optional Retirement Program
3604 ~~investment plan~~ by reason of employment in a regularly
3605 established position with a state employer commencing after
3606 April 1, 2002:

3607 a. Any such employee shall, by default, be enrolled in the
3608 defined benefit retirement program of the Florida Retirement
3609 System ~~pension plan~~ at the commencement of employment, and may,
3610 by the last business day of the 5th month after ~~following~~ the
3611 employee's month of hire, elect to participate in the Public
3612 Employee Optional Retirement Program ~~investment plan~~. The
3613 employee's election must be made in writing or by electronic
3614 means and must be filed with the third-party administrator. The
3615 election to participate in the optional program ~~investment plan~~
3616 is irrevocable, except as provided in paragraph (e) ~~(g)~~.

3617 b. If the employee files such election within the
3618 prescribed time period, enrollment in the optional program shall
3619 be ~~investment plan~~ is effective on the first day of employment.
3620 The employer retirement contributions paid through the month of
3621 the employee plan change shall be transferred to the optional
3622 ~~investment~~ program, and, effective the first day of the next

HB 1309

2012

3623 month, the employer shall ~~and employee must~~ pay the applicable
 3624 contributions based on the employee membership class in the
 3625 optional program.

3626 c. Any such ~~An~~ employee who fails to elect to participate
 3627 in the Public Employee Optional Retirement Program investment
 3628 ~~plan~~ within the prescribed time period is deemed to have elected
 3629 to retain membership in the defined benefit program of the
 3630 Florida Retirement System pension plan, and the employee's
 3631 option to elect to participate in the optional program
 3632 ~~investment plan~~ is forfeited.

3633 3. With respect to employees who become eligible to
 3634 participate in the Public Employee Optional Retirement Program
 3635 ~~investment plan~~ pursuant to s. 121.051(2)(c)3. or s.
 3636 121.35(3)(i), any such ~~the~~ employee may elect to participate in
 3637 the Public Employee Optional Retirement Program investment plan
 3638 in lieu of retaining his or her participation membership in the
 3639 State Community College System Optional Retirement Program or
 3640 the State University System Optional Retirement Program. The
 3641 election must be made in writing or by electronic means and must
 3642 be filed with the third-party administrator. This election is
 3643 irrevocable, except as provided in paragraph (e) ~~(g)~~. Upon
 3644 making such election, the employee shall be enrolled as a
 3645 participant of member in the Public Employee Optional Retirement
 3646 Program investment plan, the employee's membership in the
 3647 Florida Retirement System shall be ~~is~~ governed by the provisions
 3648 of this part, and the employee's participation in the State
 3649 Community College System Optional Retirement Program or the
 3650 State University System Optional Retirement Program shall

HB 1309

2012

3651 ~~terminate~~ terminates. The employee's enrollment in the Public
 3652 Employee Optional Retirement Program shall be ~~investment plan is~~
 3653 effective ~~on~~ the first day of the month for which a full month's
 3654 employer ~~and employee~~ contribution is made to the optional
 3655 program ~~investment plan~~.

3656 4. For purposes of this paragraph, "state employer" means
 3657 any agency, board, branch, commission, community college,
 3658 department, institution, institution of higher education, or
 3659 water management district of the state, which participates in
 3660 the Florida Retirement System for the benefit of certain
 3661 employees.

3662 (b)1. With respect to an eligible employee who is employed
 3663 in a regularly established position on September 1, 2002, by a
 3664 district school board employer:

3665 a. Any such employee may elect to participate in the
 3666 Public Employee Optional Retirement Program ~~investment plan~~ in
 3667 lieu of retaining his or her membership in the defined benefit
 3668 program of the Florida Retirement System ~~pension plan~~. The
 3669 election must be made in writing or by electronic means and must
 3670 be filed with the third-party administrator by November 30, or,
 3671 in the case of an active employee who is on a leave of absence
 3672 on July 1, 2002, by the last business day of the 5th month after
 3673 ~~following~~ the month the leave of absence concludes. This
 3674 election is irrevocable, except as provided in paragraph (e)
 3675 ~~(g)~~. Upon making such election, the employee shall be enrolled
 3676 as a participant member of the Public Employee Optional
 3677 Retirement Program ~~investment plan~~, the employee's membership in
 3678 the Florida Retirement System shall be ~~is~~ governed by the

HB 1309

2012

3679 provisions of this part, and the employee's membership in the
3680 defined benefit program of the Florida Retirement System shall
3681 terminate ~~pension plan terminates~~. The employee's enrollment in
3682 the Public Employee Optional Retirement Program shall be
3683 ~~investment plan is~~ effective the first day of the month for
3684 which a full month's employer contribution is made to the
3685 optional investment program.

3686 b. Any such employee who fails to elect to participate in
3687 the Public Employee Optional Retirement Program ~~investment plan~~
3688 within the prescribed time period is deemed to have elected to
3689 retain membership in the defined benefit program of the Florida
3690 Retirement System ~~pension plan~~, and the employee's option to
3691 elect to participate in the optional program ~~investment plan~~ is
3692 forfeited.

3693 2. With respect to employees who become eligible to
3694 participate in the Public Employee Optional Retirement Program
3695 ~~investment plan~~ by reason of employment in a regularly
3696 established position with a district school board employer
3697 commencing after July 1, 2002:

3698 a. Any such employee shall, by default, be enrolled in the
3699 defined benefit retirement program of the Florida Retirement
3700 System ~~pension plan~~ at the commencement of employment, and may,
3701 by the last business day of the 5th month following the
3702 employee's month of hire, elect to participate in the Public
3703 Employee Optional Retirement Program ~~investment plan~~. The
3704 employee's election must be made in writing or by electronic
3705 means and must be filed with the third-party administrator. The
3706 election to participate in the optional program ~~investment plan~~

HB 1309

2012

3707 is irrevocable, except as provided in paragraph (e) ~~(g)~~.

3708 b. If the employee files such election within the
3709 prescribed time period, enrollment in the optional program shall
3710 be investment plan is effective on the first day of employment.
3711 The employer retirement contributions paid through the month of
3712 the employee plan change shall be transferred to the optional
3713 program investment plan, and, effective the first day of the
3714 next month, the employer shall pay the applicable contributions
3715 based on the employee membership class in the optional program
3716 investment plan.

3717 c. Any such employee who fails to elect to participate in
3718 the Public Employee Optional Retirement Program investment plan
3719 within the prescribed time period is deemed to have elected to
3720 retain membership in the defined benefit program of the Florida
3721 Retirement System pension plan, and the employee's option to
3722 elect to participate in the optional program investment plan is
3723 forfeited.

3724 3. For purposes of this paragraph, "district school board
3725 employer" means any district school board that participates in
3726 the Florida Retirement System for the benefit of certain
3727 employees, or a charter school or charter technical career
3728 center that participates in the Florida Retirement System as
3729 provided in s. 121.051(2)(d).

3730 (c)1. With respect to an eligible employee who is employed
3731 in a regularly established position on December 1, 2002, by a
3732 local employer:

3733 a. Any such employee may elect to participate in the
3734 Public Employee Optional Retirement Program investment plan in

HB 1309

2012

3735 lieu of retaining his or her membership in the defined benefit
3736 program of the Florida Retirement System ~~pension plan~~. The
3737 election must be made in writing or by electronic means and must
3738 be filed with the third-party administrator by February 28,
3739 2003, or, in the case of an active employee who is on a leave of
3740 absence on October 1, 2002, by the last business day of the 5th
3741 month following the month the leave of absence concludes. This
3742 election is irrevocable, except as provided in paragraph (e)
3743 ~~(g)~~. Upon making such election, the employee shall be enrolled
3744 as a participant of the Public Employee Optional Retirement
3745 Program ~~investment plan~~, the employee's membership in the
3746 Florida Retirement System shall be ~~is~~ governed by the provisions
3747 of this part, and the employee's membership in the defined
3748 benefit program of the Florida Retirement System shall terminate
3749 ~~pension plan terminates~~. The employee's enrollment in the Public
3750 Employee Optional Retirement Program shall be ~~investment plan is~~
3751 effective the first day of the month for which a full month's
3752 employer contribution is made to the optional program ~~investment~~
3753 ~~plan~~.

3754 b. Any such employee who fails to elect to participate in
3755 the Public Employee Optional Retirement Program ~~investment plan~~
3756 within the prescribed time period is deemed to have elected to
3757 retain membership in the defined benefit program of the Florida
3758 Retirement System ~~pension plan~~, and the employee's option to
3759 elect to participate in the optional program ~~investment plan~~ is
3760 forfeited.

3761 2. With respect to employees who become eligible to
3762 participate in the Public Employee Optional Retirement Program

HB 1309

2012

3763 ~~investment plan~~ by reason of employment in a regularly
3764 established position with a local employer commencing after
3765 October 1, 2002:

3766 a. Any such employee shall, by default, be enrolled in the
3767 defined benefit retirement program of the Florida Retirement
3768 System ~~pension plan~~ at the commencement of employment, and may,
3769 by the last business day of the 5th month after ~~following~~ the
3770 employee's month of hire, elect to participate in the Public
3771 Employee Optional Retirement Program ~~investment plan~~. The
3772 employee's election must be made in writing or by electronic
3773 means and must be filed with the third-party administrator. The
3774 election to participate in the optional program ~~investment plan~~
3775 is irrevocable, except as provided in paragraph (e) ~~(g)~~.

3776 b. If the employee files such election within the
3777 prescribed time period, enrollment in the optional program shall
3778 be ~~investment plan is~~ effective on the first day of employment.
3779 The employer retirement contributions paid through the month of
3780 the employee plan change shall be transferred to the optional
3781 program ~~investment plan~~, and, effective the first day of the
3782 next month, the employer shall pay the applicable contributions
3783 based on the employee membership class in the optional program
3784 ~~investment plan~~.

3785 c. Any such employee who fails to elect to participate in
3786 the Public Employee Optional Retirement Program ~~investment plan~~
3787 within the prescribed time period is deemed to have elected to
3788 retain membership in the defined benefit program of the Florida
3789 Retirement System ~~pension plan~~, and the employee's option to
3790 elect to participate in the optional program ~~investment plan~~ is

3791 forfeited.

3792 3. For purposes of this paragraph, "local employer" means
 3793 any employer not included in paragraph (a) or paragraph (b).

3794 (d) Contributions available for self-direction by a
 3795 participant ~~member~~ who has not selected one or more specific
 3796 investment products shall be allocated as prescribed by the
 3797 ~~state~~ board. The third-party administrator shall notify any such
 3798 participant ~~the member~~ at least quarterly that the participant
 3799 ~~member~~ should take an affirmative action to make an asset
 3800 allocation among the optional program investment products.

3801 ~~(e) On or after July 1, 2011, a member of the pension plan~~
 3802 ~~who obtains a refund of employee contributions retains his or~~
 3803 ~~her prior plan choice upon return to employment in a regularly~~
 3804 ~~established position with a participating employer.~~

3805 ~~(f) A member of the investment plan who takes a~~
 3806 ~~distribution of any contributions from his or her investment~~
 3807 ~~plan account is considered a retiree. A retiree who is initially~~
 3808 ~~reemployed on or after July 1, 2010, is not eligible for renewed~~
 3809 ~~membership.~~

3810 ~~(e)(g)~~ After the period during which an eligible employee
 3811 had the choice to elect the defined benefit program pension plan
 3812 or the optional retirement program investment plan, or the month
 3813 after following the receipt of the eligible employee's plan
 3814 election, if sooner, the employee shall have one opportunity, at
 3815 the employee's discretion, to choose to move from the defined
 3816 benefit program pension plan to the optional retirement program
 3817 investment plan or from the optional retirement program
 3818 investment plan to the defined benefit program pension plan.

3819 Eligible employees may elect to move between Florida Retirement
 3820 System programs ~~plans~~ only if they are earning service credit in
 3821 an employer-employee relationship consistent with s.
 3822 121.021(17)(b), excluding leaves of absence without pay.
 3823 Effective July 1, 2005, such elections are effective on the
 3824 first day of the month after ~~following~~ the receipt of the
 3825 election by the third-party administrator and are not subject to
 3826 the requirements regarding an employer-employee relationship or
 3827 receipt of contributions for the eligible employee in the
 3828 effective month, except when the election is received by the
 3829 third-party administrator. This paragraph is contingent upon
 3830 approval from ~~by~~ the Internal Revenue Service for including the
 3831 choice described herein within the programs offered by the
 3832 Florida Retirement System.

3833 1. If the employee chooses to move to the optional
 3834 retirement program ~~investment plan~~, the applicable provisions of
 3835 this section shall ~~subsection (3)~~ govern the transfer.

3836 2. If the employee chooses to move to the defined benefit
 3837 program ~~pension plan~~, the employee must transfer from his or her
 3838 optional retirement program ~~investment plan~~ account, and from
 3839 other employee moneys as necessary, a sum representing the
 3840 present value of that employee's accumulated benefit obligation
 3841 immediately after ~~following~~ the time of such movement,
 3842 determined assuming that attained service equals the sum of
 3843 service in the defined benefit program ~~pension plan~~ and service
 3844 in the optional retirement program ~~investment plan~~. Benefit
 3845 commencement occurs on the first date the employee is eligible
 3846 for unreduced benefits, using the discount rate and other

HB 1309

2012

3847 relevant actuarial assumptions that were used to value the
3848 defined benefit ~~pension~~ plan liabilities in the most recent
3849 actuarial valuation. For any employee who, at the time of the
3850 second election, already maintains an accrued benefit amount in
3851 the defined benefit program ~~pension plan~~, the then-present value
3852 of the accrued benefit shall be ~~is~~ deemed part of the required
3853 transfer amount. The division shall ~~must~~ ensure that the
3854 transfer sum is prepared using a formula and methodology
3855 certified by an enrolled actuary. ~~A refund of any employee~~
3856 ~~contributions or additional member payments made which exceed~~
3857 ~~the employee contributions that would have accrued had the~~
3858 ~~member remained in the pension plan and not transferred to the~~
3859 ~~investment plan is not permitted.~~

3860 3. Notwithstanding subparagraph 2., an employee who
3861 chooses to move to the defined benefit program ~~pension plan~~ and
3862 who became eligible to participate in the optional retirement
3863 program ~~investment plan~~ by reason of employment in a regularly
3864 established position with a state employer after June 1, 2002; a
3865 district school board employer after September 1, 2002; or a
3866 local employer after December 1, 2002, must transfer from his or
3867 her optional retirement program ~~investment plan~~ account, and
3868 from other employee moneys as necessary, a sum representing the
3869 employee's actuarial accrued liability. ~~A refund of any employee~~
3870 ~~contributions or additional participant payments made which~~
3871 ~~exceed the employee contributions that would have accrued had~~
3872 ~~the member remained in the pension plan and not transferred to~~
3873 ~~the investment plan is not permitted.~~

3874 4. An employee's ability to transfer from the defined

HB 1309

2012

3875 benefit program ~~pension plan~~ to the optional retirement program
3876 ~~investment plan~~ pursuant to paragraphs (a)-(d), and the ability
3877 of a current employee to have an option to later transfer back
3878 into the defined benefit program ~~pension plan~~ under subparagraph
3879 2., shall be deemed a significant system amendment. Pursuant to
3880 s. 121.031(4), any resulting unfunded liability arising from
3881 actual original transfers from the defined benefit program
3882 ~~pension plan~~ to the optional program ~~investment plan~~ must be
3883 amortized within 30 plan years as a separate unfunded actuarial
3884 base independent of the reserve stabilization mechanism defined
3885 in s. 121.031(3)(f). For the first 25 years, a direct
3886 amortization payment may not be calculated for this base. During
3887 this 25-year period, the separate base shall be used to offset
3888 the impact of employees exercising their second program election
3889 under this paragraph. It is the intent of the Legislature that
3890 the actuarial funded status of the defined benefit program
3891 ~~pension plan~~ will not be affected by such second program
3892 elections in any significant manner, after due recognition of
3893 the separate unfunded actuarial base. After ~~Following~~ the
3894 initial 25-year period, any remaining balance of the original
3895 separate base shall be amortized over the remaining 5 years of
3896 the required 30-year amortization period.

3897 5. If the employee chooses to transfer from the optional
3898 retirement program ~~investment plan~~ to the defined benefit
3899 program ~~pension plan~~ and retains an excess account balance in
3900 the optional program ~~investment plan~~ after satisfying the buy-in
3901 requirements under this paragraph, the excess may not be
3902 distributed until the member retires from the defined benefit

HB 1309

2012

3903 program ~~pension plan~~. The excess account balance may be rolled
 3904 over to the defined benefit program ~~pension plan~~ and used to
 3905 purchase service credit or upgrade creditable service in that
 3906 program ~~the pension plan~~.

3907 (5) CONTRIBUTIONS.—

3908 (a) Each ~~The employee and~~ employer shall contribute on
 3909 behalf of each participant in ~~make the required contributions to~~
 3910 ~~the investment plan based on a percentage of the employee's~~
 3911 ~~gross monthly compensation~~ Public Employee Optional Retirement
 3912 Program, as provided in part III of this chapter.

3913 ~~(b) Employee contributions shall be paid as provided in s.~~
 3914 ~~121.71.~~

3915 ~~(c)~~ The state board, acting as plan fiduciary, shall ~~must~~
 3916 ensure that all plan assets are held in a trust, pursuant to s.
 3917 401 of the Internal Revenue Code. The fiduciary shall ~~must~~
 3918 ensure that said ~~such~~ contributions are allocated as follows:

3919 1. The ~~employer and employee contribution~~ portion
 3920 earmarked for participant ~~member~~ accounts shall be used to
 3921 purchase interests in the appropriate investment vehicles for
 3922 the accounts of each participant as specified by the participant
 3923 ~~member~~, or in accordance with paragraph (4) (d).

3924 2. The ~~employer contribution~~ portion earmarked for
 3925 administrative and educational expenses shall be transferred to
 3926 the board ~~Florida Retirement System Investment Plan Trust Fund~~.

3927 3. The ~~employer contribution~~ portion earmarked for
 3928 disability benefits shall be transferred to the department
 3929 ~~Florida Retirement System Trust Fund~~.

3930 ~~(b)(d)~~ Employers ~~The third-party administrator is~~

3931 responsible for ~~monitoring and~~ notifying participants regarding
 3932 ~~employers of the~~ maximum contribution levels permitted allowed
 3933 ~~for members~~ under the Internal Revenue Code. If a participant
 3934 ~~member~~ contributes to any other tax-deferred plan, he or she ~~the~~
 3935 ~~member~~ is responsible for ensuring that total contributions made
 3936 to the optional program investment plan and to any other such
 3937 plan do not exceed federally permitted maximums.

3938 (c)(e) The Public Employee Optional Retirement Program
 3939 ~~investment plan~~ may accept for deposit into participant member
 3940 accounts contributions in the form of rollovers or direct
 3941 trustee-to-trustee transfers by or on behalf of participants
 3942 ~~members~~, reasonably determined by the ~~state~~ board to be eligible
 3943 for rollover or transfer to the optional retirement program
 3944 ~~investment plan~~ pursuant to the Internal Revenue Code, if such
 3945 contributions are made in accordance with rules as may be
 3946 adopted by the board. Such contributions shall ~~must~~ be accounted
 3947 for in accordance with any applicable Internal Revenue Code
 3948 requirements and rules of the ~~state~~ board.

3949 (6) VESTING REQUIREMENTS.—

3950 ~~(a) A member is fully and immediately vested in all~~
 3951 ~~employee contributions paid to the investment plan as provided~~
 3952 ~~in s. 121.71, plus interest and earnings thereon and less~~
 3953 ~~investment fees and administrative charges.~~

3954 (a)(b)1. With respect to employer contributions paid on
 3955 behalf of the participant member to the optional retirement
 3956 program investment plan, plus interest and earnings thereon and
 3957 less investment fees and administrative charges, a participant
 3958 ~~member~~ is vested after completing 1 work year with an employer,

HB 1309

2012

3959 including any service while the participant member was a member
 3960 of the defined benefit program ~~pension plan~~ or an optional
 3961 retirement program authorized under s. 121.051(2)(c) or s.
 3962 121.055(6).

3963 2. If the participant member terminates employment before
 3964 satisfying the vesting requirements, the nonvested accumulation
 3965 must be transferred from the participant's member's accounts to
 3966 the state board for deposit and investment by the state board in
 3967 the ~~its~~ suspense account created within the Public Employee
 3968 Optional Retirement Program ~~Florida Retirement System Investment~~
 3969 ~~Plan~~ Trust Fund. If the terminated participant member is
 3970 reemployed as an eligible employee within 5 years, the state
 3971 board shall transfer to the participant's member's account any
 3972 amount previously transferred from the participant's member's
 3973 accounts to the suspense account, plus actual earnings on such
 3974 amount while in the suspense account.

3975 (b)(c)1. With respect to amounts ~~contributed by an~~
 3976 ~~employer and~~ transferred from the defined benefit program
 3977 ~~pension plan~~ to the investment program plan, plus interest and
 3978 earnings, and less investment fees and administrative charges, a
 3979 participant member shall be vested in the amount transferred
 3980 upon meeting the service vesting requirements for the
 3981 participant's member's membership class as set forth in s.
 3982 121.021(29) ~~121.021(45)~~. The third-party administrator shall
 3983 account for such amounts for each participant member. The
 3984 division shall notify the participant member and the third-party
 3985 administrator when the participant member has satisfied the
 3986 vesting period for Florida Retirement System purposes.

HB 1309

2012

3987 2. If the participant ~~member~~ terminates employment before
 3988 satisfying the vesting requirements, the nonvested accumulation
 3989 must be transferred from the participant's ~~member's~~ accounts to
 3990 the state board for deposit and investment by the state board in
 3991 the suspense account created within the Public Employee Optional
 3992 Retirement Program ~~Florida Retirement System Investment Plan~~
 3993 Trust Fund. If the terminated participant ~~member~~ is reemployed
 3994 as an eligible employee within 5 years, the state board shall
 3995 transfer to the participant's account ~~member's accounts~~ any
 3996 amount previously transferred from the participant's ~~member's~~
 3997 accounts to the suspense account, plus the actual earnings on
 3998 such amount while in the suspense account.

3999 ~~(c)-(d)~~ Any nonvested accumulations transferred from a
 4000 participant's ~~member's~~ account to the ~~state board's~~ suspense
 4001 account shall be forfeited, ~~including accompanying service~~
 4002 ~~credit,~~ by the participant ~~member~~ if the participant ~~member~~ is
 4003 not reemployed as an eligible employee within 5 years after
 4004 termination.

4005 ~~(e)~~ ~~If the member elects to receive any of his or her~~
 4006 ~~vested employee or employer contributions upon termination of~~
 4007 ~~employment as provided in s. 121.021(39) (a), except for a~~
 4008 ~~mandatory distribution of a de minimis account authorized by the~~
 4009 ~~state board or a minimum required distribution provided by s.~~
 4010 ~~401(a) (9) of the Internal Revenue Code, the member shall forfeit~~
 4011 ~~all nonvested employer contributions, and accompanying service~~
 4012 ~~credit, paid on behalf of the member to the investment plan.~~

4013 (7) BENEFITS.—Public Employee Optional Retirement Program
 4014 Under the ~~investment plan,~~ benefits must:

HB 1309

2012

4015 (a) Benefits shall Be provided in accordance with s.
 4016 401(a) of the Internal Revenue Code.

4017 (b) Benefits shall Accrue in individual accounts that are
 4018 participant-directed ~~member-directed~~, portable, and funded by
 4019 employer ~~and employee~~ contributions and earnings thereon.

4020 (c) Benefits shall Be payable in accordance with the
 4021 provisions of s. 121.591.

4022 (8) ~~INVESTMENT PLAN~~ ADMINISTRATION OF PROGRAM.-

4023 (a) The optional retirement program ~~investment plan~~ shall
 4024 be administered by the state board and affected employers. The
 4025 ~~state~~ board may require oaths, by affidavit or otherwise, and
 4026 acknowledgments from persons in connection with the
 4027 administration of its statutory duties and responsibilities for
 4028 this program ~~the investment plan~~. An oath, by affidavit or
 4029 otherwise, may not be required of an employee participant ~~a~~
 4030 ~~member~~ at the time of enrollment. Acknowledgment of an
 4031 employee's election to participate in the program shall be no
 4032 greater than necessary to confirm the employee's election. The
 4033 state board shall adopt rules to carry out its statutory duties
 4034 with respect to administering the optional retirement program
 4035 ~~investment plan~~, including establishing the roles and
 4036 responsibilities of affected state, local government, and
 4037 education-related employers, the state board, the department,
 4038 and third-party contractors. The department shall adopt rules
 4039 necessary to administer the optional program ~~investment plan~~ in
 4040 coordination with the defined benefit program ~~pension plan~~ and
 4041 the disability benefits available under the optional program
 4042 ~~investment plan~~.

4043 (b)~~(a)~~1. The state board shall select and contract with a
 4044 one third-party administrator to provide administrative services
 4045 if those services cannot be competitively and contractually
 4046 provided by the Division of Retirement within the Department of
 4047 Management Services. With the approval of the state board, the
 4048 third-party administrator may subcontract with other
 4049 organizations or individuals to provide components of the
 4050 administrative services. As a cost of administration, the ~~state~~
 4051 board may compensate any such contractor for its services, in
 4052 accordance with the terms of the contract, as is deemed
 4053 necessary or proper by the board. The third-party administrator
 4054 may not be an approved provider or be affiliated with an
 4055 approved provider.

4056 2. These administrative services may include, but are not
 4057 limited to, enrollment of eligible employees, collection of
 4058 employer ~~and employee~~ contributions, disbursement of such
 4059 contributions to approved providers in accordance with the
 4060 allocation directions of participants ~~members~~; services relating
 4061 to consolidated billing; individual and collective recordkeeping
 4062 and accounting; asset purchase, control, and safekeeping; and
 4063 direct disbursement of funds to and from the third-party
 4064 administrator, the division, the ~~state~~ board, employers,
 4065 participants ~~members~~, approved providers, and beneficiaries.
 4066 This section does not prevent or prohibit a bundled provider
 4067 from providing any administrative or customer service, including
 4068 accounting and administration of individual participant ~~member~~
 4069 benefits and contributions; individual participant ~~member~~
 4070 recordkeeping; asset purchase, control, and safekeeping; direct

HB 1309

2012

4071 execution of the participant's ~~member's~~ instructions as to asset
4072 and contribution allocation; calculation of daily net asset
4073 values; direct access to participant ~~member~~ account information;
4074 or periodic reporting to participants ~~members~~, at least
4075 quarterly, on account balances and transactions, if these
4076 services are authorized by the ~~state~~ board as part of the
4077 contract.

4078 3. ~~(b)1.~~ The state board shall select and contract with one
4079 or more organizations to provide educational services. With
4080 approval of the ~~state~~ board, the organizations may subcontract
4081 with other organizations or individuals to provide components of
4082 the educational services. As a cost of administration, the ~~state~~
4083 board may compensate any such contractor for its services in
4084 accordance with the terms of the contract, as is deemed
4085 necessary or proper by the board. The education organization may
4086 not be an approved provider or be affiliated with an approved
4087 provider.

4088 4.2. Educational services shall be designed by the ~~state~~
4089 board and department to assist employers, eligible employees,
4090 participants ~~members~~, and beneficiaries in order to maintain
4091 compliance with United States Department of Labor regulations
4092 under s. 404(c) of the Employee Retirement Income Security Act
4093 of 1974 and to assist employees in their choice of ~~pension plan~~
4094 defined benefit or defined contribution ~~investment plan~~
4095 retirement alternatives. Educational services include, but are
4096 not limited to, disseminating educational materials; providing
4097 retirement planning education; explaining the differences
4098 between the defined benefit retirement ~~pension~~ plan and the

4099 defined contribution retirement ~~investment~~ plan; and offering
 4100 financial planning guidance on matters such as investment
 4101 diversification, investment risks, investment costs, and asset
 4102 allocation. An approved provider may also provide educational
 4103 information, including retirement planning and investment
 4104 allocation information concerning its products and services.

4105 (c)1. In evaluating and selecting a third-party
 4106 administrator, the ~~state~~ board shall establish criteria under
 4107 which it shall consider ~~for evaluating~~ the relative capabilities
 4108 and qualifications of each proposed administrator. In developing
 4109 such criteria, the ~~state~~ board shall consider:

4110 a. The administrator's demonstrated experience in
 4111 providing administrative services to public or private sector
 4112 retirement systems.

4113 b. The administrator's demonstrated experience in
 4114 providing daily valued recordkeeping to defined contribution
 4115 plans ~~programs~~.

4116 c. The administrator's ability and willingness to
 4117 coordinate its activities with the Florida Retirement System
 4118 employers, the ~~state~~ board, and the division, and to supply to
 4119 such employers, the board, and the division the information and
 4120 data they require, including, but not limited to, monthly
 4121 management reports, quarterly participant ~~member~~ reports, and ad
 4122 hoc reports requested by the department or ~~state~~ board.

4123 d. The cost-effectiveness and levels of the administrative
 4124 services provided.

4125 e. The administrator's ability to interact with the
 4126 participants ~~members~~, the employers, the ~~state~~ board, the

HB 1309

2012

4127 | division, and the providers; the means by which participants
4128 | ~~members~~ may access account information, direct investment of
4129 | contributions, make changes to their accounts, transfer moneys
4130 | between available investment vehicles, and transfer moneys
4131 | between investment products; and any fees that apply to such
4132 | activities.

4133 | f. Any other factor deemed necessary by the Trustees of
4134 | the State Board of Administration.

4135 | 2. In evaluating and selecting an educational provider,
4136 | the ~~state~~ board shall establish criteria under which it shall
4137 | consider the relative capabilities and qualifications of each
4138 | proposed educational provider. In developing such criteria, the
4139 | ~~state~~ board shall consider:

4140 | a. Demonstrated experience in providing educational
4141 | services to public or private sector retirement systems.

4142 | b. Ability and willingness to coordinate its activities
4143 | with the Florida Retirement System employers, the ~~state~~ board,
4144 | and the division, and to supply to such employers, the board,
4145 | and the division the information and data they require,
4146 | including, but not limited to, reports on educational contacts.

4147 | c. The cost-effectiveness and levels of the educational
4148 | services provided.

4149 | d. Ability to provide educational services via different
4150 | media, including, but not limited to, the Internet, personal
4151 | contact, seminars, brochures, and newsletters.

4152 | e. Any other factor deemed necessary by the Trustees of
4153 | the State Board of Administration.

4154 | 3. The establishment of the criteria shall be solely

HB 1309

2012

4155 within the discretion of the ~~state~~ board.

4156 (d) The ~~state~~ board shall develop the form and content of
4157 any contracts to be offered under the Public Employee Optional
4158 Retirement Program investment plan. In developing its ~~the~~
4159 contracts, the board must ~~shall~~ consider:

4160 1. The nature and extent of the rights and benefits to be
4161 afforded in relation to the required contributions ~~required~~
4162 under the program plan.

4163 2. The suitability of the rights and benefits to be
4164 afforded ~~provided~~ and the interests of employers in the
4165 recruitment and retention of eligible employees.

4166 (e)1. The ~~state~~ board may contract with any consultant for
4167 professional services, including legal, consulting, accounting,
4168 and actuarial services, deemed necessary to implement and
4169 administer the optional program by the Trustees of the State
4170 Board of Administration investment plan. The ~~state~~ board may
4171 enter into a contract with one or more vendors to provide low-
4172 cost investment advice to participants ~~members~~, supplemental to
4173 education provided by the third-party administrator. All fees
4174 under any such contract shall be paid by those participants
4175 ~~members~~ who choose to use the services of the vendor.

4176 2. The department may contract with consultants for
4177 professional services, including legal, consulting, accounting,
4178 and actuarial services, deemed necessary to implement and
4179 administer the optional program investment plan in coordination
4180 with the defined benefit program of the Florida Retirement
4181 System pension plan. The department, in coordination with the
4182 ~~state~~ board, may enter into a contract with the third-party

HB 1309

2012

4183 administrator in order to coordinate services common to the
 4184 various programs within the Florida Retirement System.

4185 (f) The third-party administrator shall ~~may~~ not receive
 4186 direct or indirect compensation from an approved provider,
 4187 except as specifically provided for in the contract with the
 4188 ~~state~~ board.

4189 (g) The state board shall receive and resolve participant
 4190 ~~member~~ complaints against the program, the third-party
 4191 administrator, or any program vendor or provider; shall resolve
 4192 any conflict between the third-party administrator and an
 4193 approved provider if such conflict threatens the implementation
 4194 or administration of the program or the quality of services to
 4195 employees; and may resolve any other conflicts. The third-party
 4196 administrator shall retain all participant ~~member~~ records for at
 4197 least 5 years for use in resolving any participant ~~member~~
 4198 conflicts. The state board, the third-party administrator, or a
 4199 provider is not required to produce documentation or an audio
 4200 recording to justify action taken with regard to a participant
 4201 ~~member~~ if the action occurred 5 or more years before the
 4202 complaint is submitted to the state board. It is presumed that
 4203 all action taken 5 or more years before the complaint is
 4204 submitted was taken at the request of the participant ~~member~~ and
 4205 with the participant's ~~member's~~ full knowledge and consent. To
 4206 overcome this presumption, the participant ~~member~~ must present
 4207 documentary evidence or an audio recording demonstrating
 4208 otherwise.

4209 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

4210 (a) The ~~state~~ board shall develop policy and procedures

4211 for selecting, evaluating, and monitoring the performance of
 4212 approved providers and investment products to which employees
 4213 may direct retirement contributions under the program investment
 4214 plan. In accordance with such policy and procedures, the ~~state~~
 4215 board shall designate and contract for a number of investment
 4216 products as determined by the board. The board shall also select
 4217 one or more bundled providers, ~~each of whom~~ which may offer
 4218 multiple investment options and related services ~~when, if~~ such
 4219 an approach is determined by the board to afford ~~provide~~ value
 4220 to the participants ~~members~~ otherwise not available through
 4221 individual investment products. Each approved bundled provider
 4222 may offer investment options that provide participants ~~members~~
 4223 with the opportunity to invest in each of the following asset
 4224 classes, to be composed of individual options that represent
 4225 either a single asset class or a combination thereof: money
 4226 markets, United States fixed income, United States equities, and
 4227 foreign stock. The ~~state~~ board shall review and manage all
 4228 educational materials, contract terms, fee schedules, and other
 4229 aspects of the approved provider relationships to ensure that no
 4230 provider is unduly favored or penalized by virtue of its status
 4231 within the ~~investment~~ plan.

4232 (b) The ~~state~~ board shall consider investment options or
 4233 products it considers appropriate to give participants ~~members~~
 4234 the opportunity to accumulate retirement benefits, subject to
 4235 the following:

4236 1. The Public Employee Optional Retirement Program
 4237 ~~investment plan~~ must offer a diversified mix of low-cost
 4238 investment products that span the risk-return spectrum and may

HB 1309

2012

4239 include a guaranteed account as well as investment products,
 4240 such as individually allocated guaranteed and variable
 4241 annuities, which meet the requirements of this subsection and
 4242 combine the ability to accumulate investment returns with the
 4243 option of receiving lifetime income consistent with the long-
 4244 term retirement security of a pension plan and similar to the
 4245 lifetime-income benefit provided by the Florida Retirement
 4246 System.

4247 2. Investment options or products offered by the group of
 4248 approved providers may include mutual funds, group annuity
 4249 contracts, individual retirement annuities, interests in trusts,
 4250 collective trusts, separate accounts, and other such financial
 4251 instruments, and may include products that give participants
 4252 ~~members~~ the option of committing their contributions for an
 4253 extended time period in an effort to obtain returns higher than
 4254 those that could be obtained from investment products offering
 4255 full liquidity.

4256 3. The ~~state~~ board shall ~~may~~ not contract with any ~~a~~
 4257 provider that imposes a front-end, back-end, contingent, or
 4258 deferred sales charge, or any other fee that limits or restricts
 4259 the ability of participants ~~members~~ to select any investment
 4260 product available in the optional program ~~investment plan~~. This
 4261 prohibition does not apply to fees or charges that are imposed
 4262 on withdrawals from products that give participants ~~members~~ the
 4263 option of committing their contributions for an extended time
 4264 period in an effort to obtain returns higher than those that
 4265 could be obtained from investment products offering full
 4266 liquidity, provided that ~~if~~ the product in question, net of all

HB 1309

2012

4267 fees and charges, produces material benefits relative to other
 4268 comparable products in the program ~~investment plan~~ offering full
 4269 liquidity.

4270 4. Fees or charges for insurance features, such as
 4271 mortality and expense-risk charges, must be reasonable relative
 4272 to the benefits provided.

4273 (c) In evaluating and selecting approved providers and
 4274 products, the ~~state~~ board shall establish criteria under which
 4275 it shall consider ~~for evaluating~~ the relative capabilities and
 4276 qualifications of each proposed provider company and product. In
 4277 developing such criteria, the board shall consider the following
 4278 to the extent such factors may be applied in connection with
 4279 investment products, services, or providers:

4280 1. Experience in the United States providing retirement
 4281 products and related financial services under defined
 4282 contribution retirement plans ~~programs~~.

4283 2. Financial strength and stability which shall be ~~as~~
 4284 evidenced by the highest ratings assigned by nationally
 4285 recognized rating services when comparing proposed providers
 4286 that are so rated.

4287 3. Intrastate and interstate portability of the product
 4288 offered, including early withdrawal options.

4289 4. Compliance with the Internal Revenue Code.

4290 5. The cost-effectiveness of the product provided and the
 4291 levels of service supporting the product relative to its
 4292 benefits and its characteristics, including, without limitation,
 4293 the level of risk borne by the provider.

4294 6. The provider company's ability and willingness to

HB 1309

2012

4295 coordinate its activities with Florida Retirement System
4296 employers, the department, and the ~~state~~ board, and to supply to
4297 such ~~the~~ employers, the department, and the board ~~with~~ the
4298 information and data they require.

4299 7. The methods available to participants ~~members~~ to
4300 interact with the provider company; the means by which
4301 participants ~~members~~ may access account information, direct
4302 investment of contributions, make changes to their accounts,
4303 transfer moneys between available investment vehicles, and
4304 transfer moneys between provider companies; and any fees that
4305 apply to such activities.

4306 8. The provider company's policies with respect to the
4307 transfer of individual account balances, contributions, and
4308 earnings thereon, both internally among investment products
4309 offered by the provider company and externally between approved
4310 providers, as well as any fees, charges, reductions, or
4311 penalties that may be applied.

4312 9. An evaluation of specific investment products, taking
4313 into account each product's experience in meeting its investment
4314 return objectives net of all related fees, expenses, and
4315 charges, including, but not limited to, investment management
4316 fees, loads, distribution and marketing fees, custody fees,
4317 recordkeeping fees, education fees, annuity expenses, and
4318 consulting fees.

4319 10. Organizational factors, including, but not limited to,
4320 financial solvency, organizational depth, and experience in
4321 providing institutional and retail investment services.

4322 (d) By March 1, 2010, the ~~state~~ board shall identify and

HB 1309

2012

4323 offer at least one terror-free investment product that allocates
 4324 its funds among securities not subject to divestiture as
 4325 provided in s. 215.473 if the investment product is deemed by
 4326 the ~~state~~ board to be consistent with prudent investor
 4327 standards. No A person may ~~not~~ bring a civil, criminal, or
 4328 administrative action against an approved provider; the state
 4329 board; or any employee, officer, director, or trustee of such
 4330 provider based upon the divestiture of any security or the
 4331 offering of a terror-free investment product as specified in
 4332 this paragraph.

4333 (e) As a condition of offering any ~~an~~ investment option or
 4334 product in the optional retirement program ~~investment plan~~, the
 4335 approved provider must agree to make the investment product or
 4336 service available under the most beneficial terms offered to any
 4337 other customer, subject to approval by the Trustees of the State
 4338 Board of Administration.

4339 (f) The ~~state~~ board shall regularly review the performance
 4340 of each approved provider and product and related organizational
 4341 factors to ensure continued compliance with established
 4342 selection criteria and with board policy and procedures.
 4343 Providers and products may be terminated subject to contract
 4344 provisions. The ~~state~~ board shall adopt procedures to transfer
 4345 account balances from terminated products or providers to other
 4346 products or providers in the optional program ~~investment plan~~.

4347 (g)1. An approved provider shall comply with all
 4348 ~~applicable~~ federal and state securities and insurance laws and
 4349 regulations applicable to the provider, as well as ~~with~~ the
 4350 applicable rules and guidelines of the National Association of

4351 Securities Dealers which govern the ethical marketing of
 4352 investment products. In furtherance of this mandate, an approved
 4353 provider must agree in its contract with the ~~state~~ board to
 4354 establish and maintain a compliance education and monitoring
 4355 system to supervise the activities of all personnel who directly
 4356 communicate with individual participants ~~members~~ and recommend
 4357 investment products, which system is consistent with rules of
 4358 the National Association of Securities Dealers.

4359 2. Approved provider personnel who directly communicate
 4360 with individual participants ~~members~~ and who recommend
 4361 investment products shall make an independent and unbiased
 4362 determination as to whether an investment product is suitable
 4363 for a particular participant ~~member~~.

4364 3. The ~~state~~ board shall develop procedures to receive and
 4365 resolve participant ~~member~~ complaints against a provider or
 4366 approved provider personnel, and, when ~~if~~ appropriate, refer
 4367 such complaints to the appropriate agency.

4368 4. Approved providers may not sell or in any way
 4369 distribute any customer list or participant ~~member~~
 4370 identification information generated through their offering of
 4371 products or services through the optional retirement program
 4372 ~~investment plan~~.

4373 (10) EDUCATION COMPONENT.—

4374 (a) The ~~state~~ board, in coordination with the department,
 4375 shall provide for an education component for system members in a
 4376 manner consistent with the provisions of this section. The
 4377 education component must be available to eligible employees at
 4378 least 90 days prior to the beginning date of the election period

4379 | for the employees of the respective types of employers.

4380 | (b) The education component must provide system members
 4381 | with impartial and balanced information about plan choices. The
 4382 | education component must involve multimedia formats. Program
 4383 | comparisons must, to the greatest extent possible, be based upon
 4384 | the retirement income that different retirement programs may
 4385 | provide to the participant ~~member~~. The ~~state~~ board shall monitor
 4386 | the performance of the contract to ensure that the program is
 4387 | conducted in accordance with the contract, applicable law, and
 4388 | the rules of the ~~state~~ board.

4389 | (c) The ~~state~~ board, in coordination with the department,
 4390 | shall provide for an initial and ongoing transfer education
 4391 | component to provide system members with information necessary
 4392 | to make informed plan choice decisions. The transfer education
 4393 | component must include, but is not limited to, information on:

4394 | 1. The amount of money available to a member to transfer
 4395 | to the defined contribution program.

4396 | 2. The features of and differences between the defined
 4397 | benefit program ~~pension plan~~ and the defined contribution
 4398 | program, both generally and specifically, as those differences
 4399 | may affect the member.

4400 | 3. The expected benefit available if the member were to
 4401 | retire under each of the retirement programs, based on
 4402 | appropriate alternative sets of assumptions.

4403 | 4. The rate of return from investments in the defined
 4404 | contribution program and the period of time over which such rate
 4405 | of return must be achieved to equal or exceed the expected
 4406 | monthly benefit payable to the member under the defined benefit

4407 program ~~pension plan~~.

4408 5. The historical rates of return for the investment
4409 alternatives available in the defined contribution programs.

4410 6. The benefits and historical rates of return on
4411 investments available in a typical deferred compensation plan or
4412 a typical plan under s. 403(b) of the Internal Revenue Code for
4413 which the employee may be eligible.

4414 7. The program choices available to employees of the State
4415 University System and the comparative benefits of each available
4416 program, if applicable.

4417 8. Payout options available in each of the retirement
4418 programs.

4419 (d) An ongoing education and communication component must
4420 provide system members ~~eligible employees~~ with information
4421 necessary to make informed decisions about choices within their
4422 program of membership ~~retirement system~~ and in preparation for
4423 retirement. The component must include, but is not limited to,
4424 information concerning:

4425 1. Rights and conditions of membership.

4426 2. Benefit features within the program, options, and
4427 effects of certain decisions.

4428 3. Coordination of contributions and benefits with a
4429 deferred compensation plan under s. 457 or a plan under s.
4430 403(b) of the Internal Revenue Code.

4431 4. Significant program changes.

4432 5. Contribution rates and program funding status.

4433 6. Planning for retirement.

4434 (e) Descriptive materials must be prepared under the

HB 1309

2012

4435 assumption that the employee is an unsophisticated investor, and
 4436 all materials used in the education component must be approved
 4437 by the state board prior to dissemination.

4438 (f) The ~~state~~ board and the department shall also
 4439 establish a communication component to provide program
 4440 information to participating employers and the employers'
 4441 personnel and payroll officers and to explain their respective
 4442 responsibilities in conjunction with the retirement programs.

4443 (g) Funding for education of new employees may reflect
 4444 administrative costs to the optional program investment plan and
 4445 the defined benefit program pension plan.

4446 (h) Pursuant to paragraph subsection (8) (a), all Florida
 4447 Retirement System employers have an obligation to regularly
 4448 communicate the existence of the two Florida Retirement System
 4449 plans and the plan choice in the natural course of administering
 4450 their personnel functions, using the educational materials
 4451 supplied by the state board and the Department of Management
 4452 Services.

4453 (11) PARTICIPANT MEMBER INFORMATION REQUIREMENTS.—The
 4454 ~~state~~ board shall ensure that each participant member is
 4455 provided a quarterly statement that accounts for the
 4456 contributions made on behalf of such participant ~~the member~~; the
 4457 interest and investment earnings thereon; and any fees,
 4458 penalties, or other deductions that apply thereto. At a minimum,
 4459 such statements must:

4460 (a) Indicate the participant's member's investment
 4461 options.

4462 (b) State the market value of the account at the close of

4463 the current quarter and previous quarter.

4464 (c) Show account gains and losses for the period and

4465 changes in account accumulation unit values for the period

4466 ~~quarter~~.

4467 (d) Itemize account contributions for the quarter.

4468 (e) Indicate any account changes due to adjustment of

4469 contribution levels, reallocation of contributions, balance

4470 transfers, or withdrawals.

4471 (f) Set forth any fees, charges, penalties, and deductions

4472 that apply to the account.

4473 (g) Indicate the amount of the account in which the

4474 participant member is fully vested and the amount of the account

4475 in which the participant member is not vested.

4476 (h) Indicate each investment product's performance

4477 relative to an appropriate market benchmark.

4478

4479 The third-party administrator shall provide quarterly and annual

4480 summary reports to the ~~state~~ board and any other reports

4481 requested by the department or the ~~state~~ board. In any

4482 solicitation or offer of coverage under an optional retirement

4483 program ~~the investment plan~~, a provider company shall be

4484 governed by the contract readability provisions of s. 627.4145,

4485 notwithstanding s. 627.4145(6)(c). In addition, all descriptive

4486 materials must be prepared under the assumption that the

4487 participant member is an unsophisticated investor. Provider

4488 companies must maintain an internal system of quality assurance,

4489 have proven functional systems that are date-calculation

4490 compliant, and be subject to a due-diligence inquiry that proves

HB 1309

2012

4491 their capacity and fitness to undertake service
 4492 responsibilities.

4493 (12) ADVISORY COUNCIL TO PROVIDE ADVICE AND ASSISTANCE.—

4494 The Investment Advisory Council, ~~created pursuant to s. 215.444,~~
 4495 shall assist the ~~state~~ board in implementing and administering
 4496 the Public Employee Optional Retirement Program investment plan.
 4497 The Investment Advisory council, created pursuant to s. 215.444,
 4498 shall review the ~~state~~ board's initial recommendations regarding
 4499 the criteria to be used in selecting and evaluating approved
 4500 providers and investment products. The council may provide
 4501 comments on the recommendations to the ~~state~~ board within 45
 4502 days after receiving the initial recommendations. The ~~state~~
 4503 board shall make the final determination as to whether any
 4504 investment provider or product, any contractor, or any and all
 4505 contract provisions shall be ~~are~~ approved for the program
 4506 ~~investment plan~~.

4507 (13) FEDERAL REQUIREMENTS.—

4508 (a) Provisions of This section shall be construed, and the
 4509 Public Employee Optional Retirement Program investment plan
 4510 shall be administered, so as to comply with the Internal Revenue
 4511 Code, 26 U.S.C., and specifically with plan qualification
 4512 requirements imposed on governmental plans under s. 401(a) of
 4513 the Internal Revenue Code. The ~~state~~ board shall have the power
 4514 and authority to ~~may~~ adopt rules reasonably necessary to
 4515 establish or maintain the qualified status of the Optional
 4516 Retirement Program investment plan under the Internal Revenue
 4517 Code and to implement and administer the Optional Retirement
 4518 Program investment plan in compliance with the Internal Revenue

4519 Code and ~~as designated under~~ this part; provided however, that
 4520 the board shall not have the authority to adopt any rule which
 4521 makes a substantive change to the Optional Retirement Program
 4522 ~~investment plan~~ as designed by this part.

4523 (b) Any section or provision of this chapter which is
 4524 susceptible to more than one construction must ~~shall~~ be
 4525 interpreted in favor of the construction most likely to satisfy
 4526 requirements imposed by s. 401(a) of the Internal Revenue Code.

4527 (c) Contributions payable under this section for any
 4528 limitation year may not exceed the maximum amount allowable for
 4529 qualified defined contribution pension plans under applicable
 4530 provisions of the Internal Revenue Code. If an employee who has
 4531 elected to participate ~~is enrolled~~ in the Public Employee
 4532 Optional Retirement Program investment plan participates in any
 4533 other plan that is maintained by the participating employer,
 4534 benefits that accrue under the Public Employee Optional
 4535 Retirement Program investment plan shall be considered primary
 4536 for any aggregate limitation applicable under s. 415 of the
 4537 Internal Revenue Code.

4538 (14) INVESTMENT POLICY STATEMENT.—

4539 (a) Investment products and approved providers selected
 4540 for the Public Employee Optional Retirement Program shall
 4541 ~~investment plan must~~ conform with the Public Employee Optional
 4542 Retirement Program Florida Retirement System Investment Plan
 4543 Investment Policy Statement, herein referred to as the
 4544 "statement," as developed and approved by the trustees of the
 4545 State Board of Administration. The statement must include, among
 4546 other items, the investment objectives of the Public Employee

4547 Optional Retirement Program ~~investment plan~~, manager selection
 4548 and monitoring guidelines, and performance measurement criteria.
 4549 As required from time to time, the executive director of the
 4550 state board may present recommended changes in the statement to
 4551 the board for approval.

4552 (b) Prior to presenting the statement, or any recommended
 4553 changes thereto, to the state board, the executive director of
 4554 the board shall present such statement or changes to the
 4555 Investment Advisory Council for review. The council shall
 4556 present the results of its review to the board prior to the
 4557 board's final approval of the statement or changes in the
 4558 statement.

4559 (15) STATEMENT OF FIDUCIARY STANDARDS AND
 4560 RESPONSIBILITIES.—

4561 (a) Investment of optional defined contribution retirement
 4562 plan assets shall be made for the sole interest and exclusive
 4563 purpose of providing benefits to plan participants ~~members~~ and
 4564 beneficiaries and defraying reasonable expenses of administering
 4565 the plan. The program's assets are to ~~shall~~ be invested, on
 4566 behalf of the program participants, ~~members~~ with the care,
 4567 skill, and diligence that a prudent person acting in a like
 4568 manner would undertake. The performance of the investment duties
 4569 set forth in this paragraph shall comply with the fiduciary
 4570 standards set forth in the Employee Retirement Income Security
 4571 Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). In case of
 4572 conflict with other provisions of law authorizing investments,
 4573 the investment and fiduciary standards set forth in this
 4574 subsection shall prevail.

4575 (b) If a participant member or beneficiary of the Public
 4576 Employee Optional Retirement Program investment plan exercises
 4577 control over the assets in his or her account, as determined by
 4578 reference to regulations of the United States Department of
 4579 Labor under s. 404(c) of the Employee Retirement Income Security
 4580 Act of 1974 and all applicable laws governing the operation of
 4581 the program, no a program fiduciary shall be is not liable for
 4582 any loss to a participant's member's or beneficiary's account
 4583 which results from such participant's the member's or
 4584 beneficiary's exercise of control.

4585 (c) Subparagraph (8) (b) 4.2. and paragraph (15) (b)
 4586 incorporate the federal law concept of participant control,
 4587 established by regulations of the United States Department of
 4588 Labor under s. 404(c) of the Employee Retirement Income Security
 4589 Act of 1974 (ERISA). The purpose of this paragraph is to assist
 4590 employers and the State Board of Administration in maintaining
 4591 compliance with s. 404(c), while avoiding unnecessary costs and
 4592 eroding participant member benefits under the Public Employee
 4593 Optional Retirement Program investment plan. Pursuant to 29
 4594 C.F.R. s. 2550.404c-1(b) (2) (i) (B) (1) (viii), the State Board of
 4595 Administration or its designated agents shall deliver to ~~members~~
 4596 participants of the Public Employee Optional Retirement Program
 4597 investment plan a copy of the prospectus most recently provided
 4598 to the plan, and, pursuant to 29 C.F.R. s. 2550.404c-
 4599 1(b) (2) (i) (B) (2) (ii), shall provide such participants members an
 4600 opportunity to obtain this information, except that:

4601 1. The requirement to deliver a prospectus shall be deemed
 4602 to be satisfied by delivery of a fund profile ~~or summary profile~~

4603 that contains the information that would be included in a
 4604 summary prospectus as described by Rule 498 under the Securities
 4605 Act of 1933, 17 C.F.R. s. 230.498. When ~~If~~ the transaction fees,
 4606 expense information or other information provided by a mutual
 4607 fund in the prospectus does not reflect terms negotiated by the
 4608 State Board of Administration or its designated agents, the
 4609 aforementioned requirement is deemed to be satisfied by delivery
 4610 of a separate document described by Rule 498 substituting
 4611 accurate information; and

4612 2. Delivery shall be deemed to have been effected if
 4613 delivery is through electronic means and the following standards
 4614 are satisfied:

4615 a. Electronically-delivered documents are prepared and
 4616 provided consistent with style, format, and content requirements
 4617 applicable to printed documents;

4618 b. Each participant member is provided timely and adequate
 4619 notice of the documents that are to be delivered, and their
 4620 significance thereof, and of the participant's member's right to
 4621 obtain a paper copy of such documents free of charge;

4622 c. (I) Participants Members have adequate access to the
 4623 electronic documents, at locations such as their worksites or
 4624 public facilities, and have the ability to convert the documents
 4625 to paper free of charge by the State Board of Administration,
 4626 and the board or its designated agents take appropriate and
 4627 reasonable measures to ensure that the system for furnishing
 4628 electronic documents results in actual receipt, or.

4629 (II) Participants Members have provided consent to receive
 4630 information in electronic format, which consent may be revoked;

4631 and
 4632 d. The State Board of Administration, or its designated
 4633 agent, actually provides paper copies of the documents free of
 4634 charge, upon request.

4635 (16) DISABILITY BENEFITS.—For any participant ~~member~~ of
 4636 the optional retirement program investment plan who becomes
 4637 totally and permanently disabled, benefits shall ~~must~~ be paid in
 4638 accordance with the provisions of s. 121.591.

4639 (17) SOCIAL SECURITY COVERAGE.—Social security coverage
 4640 shall be provided for all officers and employees who become
 4641 participants ~~members~~ of the optional program investment plan.
 4642 Any modification of the present agreement with the Social
 4643 Security Administration, or referendum required under the Social
 4644 Security Act, for the purpose of providing social security
 4645 coverage for any member shall be requested by the state agency
 4646 in compliance with the applicable provisions of the Social
 4647 Security Act governing such coverage. However, retroactive
 4648 social security coverage for service prior to December 1, 1970,
 4649 with the employer shall ~~may~~ not be provided for any member who
 4650 was not covered under the agreement as of November 30, 1970.

4651 (18) RETIREE HEALTH INSURANCE SUBSIDY.—All officers and
 4652 employees who are participants ~~members~~ of the investment plan
 4653 ~~are~~ optional program shall be eligible to receive the retiree
 4654 health insurance subsidy, subject to the provisions of s.
 4655 112.363.

4656 (19) PARTICIPANT ~~MEMBER~~ RECORDS.—Personal identifying
 4657 information of a participant ~~member~~ in the Public Employee
 4658 Optional Retirement Program investment plan contained in Florida

HB 1309

2012

4659 Retirement System records held by the State Board of
4660 Administration or the Department of Management Services is
4661 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
4662 Constitution.

4663 (20) DESIGNATION OF BENEFICIARIES.—

4664 (a) Each participant member may, ~~by electronic means or~~ on
4665 a form provided for that purpose, signed and filed with the
4666 third-party administrator, designate a choice of one or more
4667 persons, named sequentially or jointly, as his or her
4668 beneficiary who shall receive ~~for receiving~~ the benefits, if
4669 any, which may be payable pursuant to this chapter in the event
4670 of the participant's member's death. If no beneficiary is named
4671 in this manner, or if no beneficiary designated by the
4672 participant member survives the participant member, the
4673 beneficiary shall be the spouse of the deceased, if living. If
4674 the participant's member's spouse is not alive at his or her ~~the~~
4675 ~~time of the member's~~ death, the beneficiary shall be the living
4676 children of the participant member. If no children survive, the
4677 beneficiary shall be the participant's member's father or
4678 mother, if living; otherwise, the beneficiary shall be the
4679 participant's member's estate. The beneficiary most recently
4680 designated by a participant on a form or letter filed with the
4681 third-party administrator member shall be the beneficiary
4682 entitled to any benefits payable at the time of the
4683 participant's member's death. Notwithstanding any other
4684 provision in this subsection to the contrary ~~However~~, for a
4685 participant member who dies prior to his or her effective date
4686 of retirement, the spouse at the time of death shall be the

4687 participant's ~~member's~~ beneficiary unless such participant ~~the~~
 4688 ~~member~~ designates a different beneficiary as provided in this
 4689 subsection subsequent to the participant's ~~member's~~ most recent
 4690 marriage.

4691 (b) If a participant ~~member~~ designates a primary
 4692 beneficiary other than the participant's ~~member's~~ spouse, the
 4693 participant's ~~member's~~ spouse must sign the beneficiary
 4694 designation form to acknowledge the designation. This
 4695 requirement does not apply to the designation of one or more
 4696 contingent beneficiaries to receive benefits remaining upon the
 4697 death of the primary beneficiary or beneficiaries.

4698 (c) Notwithstanding the participant's ~~member's~~ designation
 4699 of benefits to be paid through a trust to a beneficiary that is
 4700 a natural person, and notwithstanding the provisions of the
 4701 trust, benefits shall ~~must~~ be paid directly to the beneficiary
 4702 if the person is no longer a minor or an incapacitated person as
 4703 defined in s. 744.102.

4704 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT
 4705 OPTION PROGRAM PARTICIPANTS ~~MEMBERS~~.--Notwithstanding any ~~other~~
 4706 provision of law to the contrary, participants ~~members~~ in the
 4707 Deferred Retirement Option Program offered under part I may,
 4708 after conclusion of their participation in the program, elect to
 4709 roll over or authorize a direct trustee-to-trustee transfer to
 4710 an account under the Public Employee Optional Retirement Program
 4711 ~~investment plan~~ of their Deferred Retirement Option Program
 4712 proceeds distributed as provided under s. 121.091(13)(c)5. The
 4713 transaction must constitute an "eligible rollover distribution"
 4714 within the meaning of s. 402(c)(4) of the Internal Revenue Code.

4715 (a) The Public Employee Optional Retirement Program
 4716 ~~investment plan~~ may accept such amounts for deposit into
 4717 participant member accounts as provided in paragraph (5) ~~(c)(e)~~.

4718 (b) The affected participant member shall direct the
 4719 investment of his or her investment account; however, unless he
 4720 or she becomes a renewed member of the Florida Retirement System
 4721 under s. 121.122 and elects to participate in the Public
 4722 Employee Optional Retirement Program investment plan, employer
 4723 ~~ne~~ contributions may not be made to the participant's member's
 4724 account as provided under paragraph (5) (a).

4725 (c) The state board or the department is not responsible
 4726 for locating those persons who may be eligible to participate in
 4727 the Public Employee Optional Retirement Program investment plan
 4728 under this subsection.

4729 (22) CREDIT FOR MILITARY SERVICE.—Creditable service of
 4730 any member of the Public Employee Optional Retirement Program
 4731 shall include investment plan includes military service in the
 4732 Armed Forces of the United States as provided in the conditions
 4733 outlined in s. 121.111(1).

4734 Section 27. Section 121.4502, Florida Statutes, is amended
 4735 to read:

4736 121.4502 Public Employee Optional Retirement Program
 4737 ~~Florida Retirement System Investment Plan Trust Fund.—~~

4738 (1) The Public Employee Optional Retirement Program
 4739 ~~Florida Retirement System Investment Plan Trust Fund~~ is created
 4740 to hold the assets of the Public Employee Optional Retirement
 4741 Program Florida Retirement System Investment Plan in trust for
 4742 the exclusive benefit of such program's participants ~~the plan's~~

HB 1309

2012

4743 ~~members~~ and beneficiaries, and for the payment of reasonable
4744 administrative expenses of the program plan, in accordance with
4745 s. 401 of the Internal Revenue Code, and shall be administered
4746 by the State Board of Administration as trustee. Funds shall be
4747 credited to the trust fund as provided in this part, to be used
4748 for the purposes of this part. The trust fund is exempt from the
4749 service charges imposed by s. 215.20.

4750 (2) The Public Employee Optional Retirement Program
4751 ~~Florida Retirement System Investment Plan~~ Trust Fund is a
4752 retirement trust fund of the Florida Retirement System that
4753 accounts for retirement plan assets held by the state in a
4754 trustee capacity as a fiduciary for individual participants in
4755 the Public Employee Optional Retirement Program ~~Florida~~
4756 ~~Retirement System Investment Plan~~ and, pursuant to s. 19(f),
4757 Art. III of the State Constitution, is not subject to
4758 termination.

4759 (3) A forfeiture account shall be created within the
4760 Public Employee Optional Retirement Program ~~Florida Retirement~~
4761 ~~System Investment Plan~~ Trust Fund to hold the assets derived
4762 from the forfeiture of benefits by participants. Pursuant to a
4763 private letter ruling from the Internal Revenue Service, the
4764 forfeiture account may be used only for paying expenses of the
4765 Public Employee Optional Retirement Program ~~Florida Retirement~~
4766 ~~System Investment Plan~~ and reducing future employer
4767 contributions to the program. Consistent with Rulings 80-155 and
4768 74-340 of the Internal Revenue Service, unallocated reserves
4769 within the forfeiture account must be used as quickly and as
4770 prudently as possible considering the state board's fiduciary

HB 1309

2012

4771 duty. Expected withdrawals from the account must endeavor to
 4772 reduce the account to zero each fiscal year.

4773 Section 28. Subsections (1) and (3) of section 121.4503,
 4774 Florida Statutes, are amended to read:

4775 121.4503 Florida Retirement System Contributions Clearing
 4776 Trust Fund.—

4777 (1) The Florida Retirement System Contributions Clearing
 4778 Trust Fund is created as a clearing fund for disbursing employer
 4779 ~~and employee~~ contributions to the component plans of the Florida
 4780 Retirement System and shall be administered by the Department of
 4781 Management Services. Funds shall be credited to the trust fund
 4782 as provided in this chapter and shall be held in trust for the
 4783 contributing ~~employees and~~ employers until such time as the
 4784 assets are transferred by the department to the Florida
 4785 Retirement System Trust Fund, the Public Employee Optional
 4786 Retirement Program ~~Florida Retirement System Investment Plan~~
 4787 Trust Fund, or other trust funds as authorized by law, to be
 4788 used for the purposes of this chapter. The trust fund is exempt
 4789 from the service charges imposed by s. 215.20.

4790 (3) The Department of Management Services may adopt rules
 4791 governing the receipt and disbursement of amounts received by
 4792 the Florida Retirement System Contributions Clearing Trust Fund
 4793 from employers ~~and employees~~ contributing to the component plans
 4794 of the Florida Retirement System.

4795 Section 29. Section 121.571, Florida Statutes, is amended
 4796 to read:

4797 121.571 Contributions.—Contributions to the Public
 4798 Employee Optional Retirement Program ~~Florida Retirement System~~

4799 ~~Investment Plan~~ shall be made as follows:

4800 (1) NONCONTRIBUTORY ~~CONTRIBUTORY~~ PLAN.—Each employer ~~and~~
 4801 ~~employee~~ shall accomplish the ~~submit~~ contributions ~~as~~ required
 4802 by s. 121.71 by a procedure in which no employee's gross salary
 4803 shall be reduced.

4804 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund
 4805 the retirement and disability benefits provided under this part
 4806 shall ~~must~~ be based on the uniform contribution rates
 4807 established by s. 121.71 and on the membership class or subclass
 4808 of the participant ~~member~~. Such contributions shall ~~must~~ be
 4809 allocated as provided in ss. 121.72 and 121.73.

4810 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR
 4811 RETIREE HEALTH INSURANCE SUBSIDY.—Contributions required under
 4812 this section shall be ~~s. 121.71~~ are in addition to employer and
 4813 member contributions required for social security and the
 4814 Retiree Health Insurance Subsidy Trust Fund as provided in
 4815 ~~required under~~ ss. 112.363, 121.052, 121.055, and 121.071, as
 4816 appropriate.

4817 Section 30. Section 121.591, Florida Statutes, is amended
 4818 to read:

4819 121.591 ~~Payment of~~ Benefits payable under the Public
 4820 Employee Optional Retirement Program of the Florida Retirement
 4821 System.—Benefits may not be paid under this section ~~the Florida~~
 4822 ~~Retirement System Investment Plan~~ unless the member has
 4823 terminated employment as provided in s. 121.021(39)(a) or is
 4824 deceased and a proper application has been filed in the manner
 4825 ~~as~~ prescribed by the state board or the department. ~~Before~~
 4826 ~~termination of employment, benefits, including employee~~

4827 ~~contributions, are not payable under the investment plan for~~
 4828 ~~employee hardships, unforeseeable emergencies, loans, medical~~
 4829 ~~expenses, educational expenses, purchase of a principal~~
 4830 ~~residence, payments necessary to prevent eviction or foreclosure~~
 4831 ~~on an employee's principal residence, or any other reason prior~~
 4832 ~~to termination from all employment relationships with~~
 4833 ~~participating employers.~~ The state board or department, as
 4834 appropriate, may cancel an application for retirement benefits
 4835 when ~~if~~ the member or beneficiary fails to timely provide the
 4836 information and documents required by this chapter and the rules
 4837 of the state board and department. In accordance with their
 4838 respective responsibilities as provided herein, the State Board
 4839 of Administration and the Department of Management Services
 4840 shall adopt rules establishing procedures for application for
 4841 retirement benefits and for the cancellation of such application
 4842 when ~~if~~ the required information or documents are not received.
 4843 The State Board of Administration and the Department of
 4844 Management Services, as appropriate, are authorized to cash out
 4845 a de minimis account of a participant ~~member~~ who has been
 4846 terminated from Florida Retirement System covered employment for
 4847 a minimum of 6 calendar months. A de minimis account is an
 4848 account containing employer ~~and employee~~ contributions and
 4849 accumulated earnings of not more than \$5,000 made under the
 4850 provisions of this chapter. Such cash-out must either be a
 4851 complete lump-sum liquidation of the account balance, subject to
 4852 the provisions of the Internal Revenue Code, or a lump-sum
 4853 direct rollover distribution paid directly to the custodian of
 4854 an eligible retirement plan, as defined by the Internal Revenue

HB 1309

2012

4855 Code, on behalf of the participant member. ~~Any nonvested~~
4856 ~~accumulations and associated service credit, including amounts~~
4857 ~~transferred to the suspense account of the Florida Retirement~~
4858 ~~System Investment Plan Trust Fund authorized under s.~~
4859 ~~121.4501(6), shall be forfeited upon payment of any vested~~
4860 ~~benefit to a member or beneficiary, except for de minimis~~
4861 ~~distributions or minimum required distributions as provided~~
4862 ~~under this section.~~ If any financial instrument issued for the
4863 payment of retirement benefits under this section is not
4864 presented for payment within 180 days after the last day of the
4865 month in which it was originally issued, the third-party
4866 administrator or other duly authorized agent of the State Board
4867 of Administration shall cancel the instrument and credit the
4868 amount of the instrument to the suspense account of the Public
4869 Employee Optional Retirement Program ~~Florida Retirement System~~
4870 ~~Investment Plan~~ Trust Fund authorized under s. 121.4501(6). Any
4871 such amounts transferred to the suspense account are payable
4872 upon a proper application, not to include earnings thereon, as
4873 provided in this section, within 10 years after the last day of
4874 the month in which the instrument was originally issued, after
4875 which time such amounts and any earnings thereon ~~attributable to~~
4876 ~~employer contributions~~ shall be forfeited. Any such forfeited
4877 amounts are assets of the Public Employee Optional Retirement
4878 Program trust fund and are not subject to the provisions of
4879 chapter 717.

4880 (1) NORMAL BENEFITS.—Under the Public Employee Optional
4881 Retirement Program ~~investment plan~~:

4882 (a) Benefits in the form of vested accumulations as

4883 described in s. 121.4501(6) are payable under this subsection in
 4884 accordance with the following terms and conditions:

4885 1. To the extent vested, benefits are payable only to a
 4886 participant member, ~~an alternate payee of a qualified domestic~~
 4887 ~~relations order, or a beneficiary.~~

4888 2. Benefits shall be paid by the third-party administrator
 4889 or designated approved providers in accordance with the law, the
 4890 contracts, and any applicable board rule or policy.

4891 3. To receive benefits, the participant member must be
 4892 terminated from all employment with all Florida Retirement
 4893 System employers, as provided in s. 121.021(39).

4894 4. Benefit payments may not be made until the participant
 4895 ~~member~~ has been terminated for 3 calendar months, except that
 4896 the ~~state~~ board may authorize by rule for the distribution of up
 4897 to 10 percent of the participant's ~~member's~~ account after being
 4898 terminated for 1 calendar month if the participant member has
 4899 reached the normal retirement date as defined in s. 121.021 of
 4900 the defined benefit plan.

4901 5. If a member or former member of the Florida Retirement
 4902 System receives an invalid distribution from the Public Employee
 4903 Optional Retirement Program Trust Fund, such person must ~~either~~
 4904 repay the full invalid distribution to the trust fund ~~amount~~
 4905 within 90 days after receipt of final notification by the state
 4906 board or the third-party administrator that the distribution was
 4907 invalid, ~~or, in lieu of repayment, the member must terminate~~
 4908 ~~employment from all participating employers.~~ If such person
 4909 fails to repay the full invalid distribution within 90 days
 4910 after receipt of final notification, the person may be deemed

4911 | retired from the optional retirement program ~~investment plan~~ by
 4912 | the state board, as provided pursuant to s. 121.4501(2)(k), and
 4913 | is subject to s. 121.122. If such person is deemed retired by
 4914 | the state board, any joint and several liability set out in s.
 4915 | 121.091(9)(d)2. becomes null and is void, and the state board,
 4916 | the department, or the employing agency is not liable for gains
 4917 | on payroll contributions that have not been deposited to the
 4918 | person's account in the retirement program ~~investment plan~~,
 4919 | pending resolution of the invalid distribution. The member or
 4920 | former member who has been deemed retired or who has been
 4921 | determined by the ~~state~~ board to have taken an invalid
 4922 | distribution may appeal the agency decision through the
 4923 | complaint process as provided under s. 121.4501(9)(g)3. As used
 4924 | in this subparagraph, the term "invalid distribution" means any
 4925 | distribution from an account in the optional retirement program
 4926 | ~~investment plan~~ which is taken in violation of this section, s.
 4927 | 121.091(9), or s. 121.4501.

4928 | (b) If a participant ~~member~~ elects to receive his or her
 4929 | benefits upon termination of employment as defined in s.
 4930 | 121.021, the participant ~~member~~ must submit a written
 4931 | application or an application by electronic means to the third-
 4932 | party administrator indicating his or her preferred distribution
 4933 | date and selecting an authorized method of distribution as
 4934 | provided in paragraph (c). The participant ~~member~~ may defer
 4935 | receipt of benefits until he or she chooses to make such
 4936 | application, subject to federal requirements.

4937 | (c) Upon receipt by the third-party administrator of a
 4938 | properly executed application for distribution of benefits, the

4939 total accumulated benefit shall be ~~is~~ payable to the participant
 4940 ~~member pro rata across all Florida Retirement System benefit~~
 4941 ~~sources~~ as:

4942 1. A lump-sum ~~or partial~~ distribution to the participant
 4943 ~~member;~~

4944 2. A lump-sum direct rollover distribution whereby all
 4945 accrued benefits, plus interest and investment earnings, are
 4946 paid from the participant's ~~member's~~ account directly to the
 4947 custodian of an eligible retirement plan, as defined in s.
 4948 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
 4949 participant ~~member;~~ or

4950 3. Periodic distributions, as authorized by the state
 4951 board.

4952 ~~(d) The distribution payment method selected by the member~~
 4953 ~~or beneficiary, and the retirement of the member or beneficiary,~~
 4954 ~~is final and irrevocable at the time a benefit distribution~~
 4955 ~~payment is cashed, deposited, or transferred to another~~
 4956 ~~financial institution. Any additional service that remains~~
 4957 ~~unclaimed at retirement may not be claimed or purchased, and the~~
 4958 ~~type of retirement may not be changed, except that if a member~~
 4959 ~~recovers from a disability, the member may subsequently request~~
 4960 ~~benefits under subsection (2).~~

4961 ~~(e) A member may not receive a distribution of employee~~
 4962 ~~contributions if a pending qualified domestic relations order is~~
 4963 ~~filed against the member's investment plan account.~~

4964 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided
 4965 under this subsection are payable in lieu of the benefits which
 4966 ~~that~~ would otherwise be payable under the provisions of

4967 subsection (1). Such benefits shall ~~must~~ be funded entirely from
 4968 employer contributions made under s. 121.571, transferred
 4969 participant ~~employee contributions and~~ funds accumulated
 4970 pursuant to paragraph (a), and interest and earnings thereon.
 4971 Pursuant thereto:

4972 (a) *Transfer of funds.*—To qualify to receive monthly
 4973 disability benefits under this subsection:

4974 1. All moneys accumulated in the participant's Public
 4975 Employee Optional Retirement Program accounts ~~member's account~~,
 4976 including vested and nonvested accumulations as described in s.
 4977 121.4501(6), shall ~~must~~ be transferred from such individual
 4978 accounts to the Division of Retirement for deposit in the
 4979 disability account of the Florida Retirement System Trust Fund.
 4980 Such moneys shall ~~must~~ be separately accounted for ~~separately~~.
 4981 Earnings shall ~~must~~ be credited on an annual basis for amounts
 4982 held in the disability accounts of the Florida Retirement System
 4983 Trust Fund based on actual earnings of the Florida Retirement
 4984 System trust fund.

4985 2. If the participant ~~member~~ has retained retirement
 4986 credit he or she had earned under the defined benefit program of
 4987 the Florida Retirement System ~~pension plan~~ as provided in s.
 4988 121.4501(3) (b), a sum representing the actuarial present value
 4989 of such credit within the Florida Retirement System Trust Fund
 4990 shall be reassigned by the Division of Retirement from the
 4991 defined benefit program ~~pension plan~~ to the disability program
 4992 as implemented under this subsection and shall be deposited in
 4993 the disability account of the Florida Retirement System trust
 4994 fund. Such moneys shall ~~must~~ be separately accounted for

4995 ~~separately.~~

4996 (b) *Disability retirement; entitlement.*—

4997 1. A participant member of the Public Employee Optional

4998 Retirement Program investment plan who becomes totally and

4999 permanently disabled, as defined in s. 121.091(4)(b) paragraph

5000 ~~(d)~~, after completing 8 years of creditable service, or a

5001 participant member who becomes totally and permanently disabled

5002 in the line of duty regardless of his or her length of service,

5003 shall be is entitled to a monthly disability benefit as provided

5004 herein.

5005 2. In order for service to apply toward the 8 years of

5006 ~~creditable~~ service required to vest for regular disability

5007 benefits, or toward the creditable service used in calculating a

5008 service-based benefit as provided for under paragraph (g), the

5009 service must be creditable service as described below:

5010 a. The participant's member's period of service under the

5011 Public Employee Optional Retirement Program will investment plan

5012 ~~shall~~ be considered creditable service, except as provided in

5013 subparagraph d.

5014 b. If the participant member has elected to retain credit

5015 for his or her service under the defined benefit program of the

5016 Florida Retirement System pension plan as provided under s.

5017 121.4501(3) (b), all such service will shall be considered

5018 creditable service.

5019 c. If the participant has elected member elects to

5020 transfer to his or her participant member accounts a sum

5021 representing the present value of his or her retirement credit

5022 under the defined benefit program pension plan as provided under

HB 1309

2012

5023 s. 121.4501(3) (c), the period of service under the defined
 5024 benefit program ~~pension plan~~ represented in the present value
 5025 amounts transferred will ~~shall~~ be considered creditable service
 5026 for purposes of vesting for disability benefits, except as
 5027 provided in subparagraph d.

5028 d. Whenever a participant ~~If a member~~ has terminated
 5029 employment and has taken distribution of his or her funds as
 5030 provided in subsection (1), all creditable service represented
 5031 by such distributed funds is forfeited for purposes of this
 5032 subsection.

5033 (c) *Disability retirement effective date.*—The effective
 5034 retirement date for a participant ~~member~~ who applies and is
 5035 approved for disability retirement shall be established as
 5036 provided under s. 121.091(4) (a)2. and 3.

5037 (d) *Total and permanent disability.*—A participant ~~member~~
 5038 shall be considered totally and permanently disabled if, in the
 5039 opinion of the division, he or she is prevented, by reason of a
 5040 medically determinable physical or mental impairment, from
 5041 rendering useful and efficient service as an officer or
 5042 employee.

5043 (e) *Proof of disability.*—The division, before approving
 5044 payment of any disability retirement benefit, ~~the division~~ shall
 5045 require proof that the participant ~~member~~ is totally and
 5046 permanently disabled in the same manner as provided for members
 5047 of the defined benefit program of the Florida Retirement System
 5048 under s. 121.091(4) (c).

5049 (f) *Disability retirement benefit.*—Upon the disability
 5050 retirement of a participant ~~member~~ under this subsection, the

HB 1309

2012

5051 participant member shall receive a monthly benefit that shall
 5052 begin to accrue ~~begins accruing~~ on the first day of the month of
 5053 disability retirement, as approved by the division, and shall be
 5054 ~~is~~ payable on the last day of that month and each month
 5055 thereafter during his or her lifetime and continued disability.
 5056 All disability benefits payable to such member shall ~~must~~ be
 5057 paid out of the disability account of the Florida Retirement
 5058 System Trust Fund established under this subsection.

5059 (g) *Computation of disability retirement benefit.*—The
 5060 amount of each monthly payment shall ~~must~~ be calculated in the
 5061 same manner as provided for members of the defined benefit
 5062 program of the Florida Retirement System under s. 121.091(4)(f).
 5063 For such purpose, Creditable service under both the defined
 5064 benefit program ~~pension plan~~ and the Public Employee Optional
 5065 Retirement Program of the Florida Retirement System ~~investment~~
 5066 ~~plan~~ shall be applicable as provided under paragraph (b).

5067 (h) *Reapplication.*—A participant member whose initial
 5068 application for disability retirement has been ~~is~~ denied may
 5069 reapply for disability benefits in the same manner, and under
 5070 the same conditions, as provided for members of the defined
 5071 benefit program of the Florida Retirement System under ~~in~~ s.
 5072 121.091(4)(g).

5073 (i) *Membership.*—Upon approval of an ~~a member's~~ application
 5074 for disability benefits under this subsection, the applicant
 5075 ~~member~~ shall be transferred to the defined benefit program of
 5076 the Florida Retirement System ~~pension plan~~, effective upon his
 5077 or her disability retirement effective date.

5078 (j) *Option to cancel.*— Any participant ~~A member~~ whose

5079 application for disability benefits is approved may cancel ~~the~~
 5080 his or her application for disability benefits, provided that if
 5081 the cancellation request is received by the division before a
 5082 disability retirement warrant has been deposited, cashed, or
 5083 received by direct deposit. Upon such cancellation:

5084 1. The participant's ~~member's~~ transfer to the defined
 5085 benefit program ~~pension plan~~ under paragraph (i) shall be
 5086 nullified;

5087 2. The participant ~~member~~ shall be retroactively
 5088 reinstated in the Public Employee Optional Retirement Program
 5089 ~~investment plan~~ without hiatus;

5090 3. All funds transferred to the Florida Retirement System
 5091 Trust Fund under paragraph (a) shall ~~must~~ be returned to the
 5092 participant ~~member~~ accounts from which such ~~the~~ funds were
 5093 drawn; and

5094 4. The participant ~~member~~ may elect to receive the benefit
 5095 payable under the provisions of subsection (1) in lieu of
 5096 disability benefits as provided under this subsection.

5097 (k) *Recovery from disability.*—

5098 1. The division may require periodic reexaminations at the
 5099 expense of the disability program account of the Florida
 5100 Retirement System Trust Fund. Except as otherwise provided in
 5101 subparagraph 2., the requirements, procedures, and restrictions
 5102 relating to the conduct and review of such reexaminations,
 5103 discontinuation or termination of benefits, reentry into
 5104 employment, disability retirement after reentry into covered
 5105 employment, and all other matters relating to recovery from
 5106 disability shall be the same as are set forth ~~provided~~ under s.

HB 1309

2012

5107 | 121.091(4)(h).

5108 | 2. Upon recovery from disability, any ~~the~~ recipient of
5109 | disability retirement benefits under this subsection shall be a
5110 | compulsory member of the Public Employee Optional Retirement
5111 | Program of the Florida Retirement System ~~investment plan~~. The
5112 | net difference between the recipient's original account balance
5113 | transferred to the Florida Retirement System Trust Fund,
5114 | including earnings, under paragraph (a) and total disability
5115 | benefits paid to such recipient, if any, shall be determined as
5116 | provided in sub-subparagraph a.

5117 | a. An amount equal to the total benefits paid shall be
5118 | subtracted from that portion of the transferred account balance
5119 | consisting of vested accumulations as described under s.

5120 | 121.4501(6), if any, and an amount equal to the remainder of
5121 | benefit amounts paid, if any, shall then be subtracted from any
5122 | remaining portion consisting of nonvested accumulations as
5123 | described under s. 121.4501(6).

5124 | b. Amounts subtracted under sub-subparagraph a. shall ~~must~~
5125 | be retained within the disability account of the Florida
5126 | Retirement System Trust Fund. Any remaining account balance
5127 | shall be transferred to the third-party administrator for
5128 | disposition as provided under sub-subparagraph c. or sub-
5129 | subparagraph d., as appropriate.

5130 | c. If the recipient returns to covered employment,
5131 | transferred amounts shall ~~must~~ be deposited in individual
5132 | accounts under the Public Employee Optional Retirement Program
5133 | ~~investment plan~~, as directed by the participant ~~member~~. Vested
5134 | and nonvested amounts shall be separately accounted for

HB 1309

2012

5135 ~~separately~~ as provided in s. 121.4501(6).

5136 d. If the recipient fails to return to covered employment
5137 upon recovery from disability:

5138 (I) Any remaining vested amount shall ~~must~~ be deposited in
5139 individual accounts under the Public Employee Optional
5140 Retirement Program investment plan, as directed by the
5141 participant member, and shall be ~~is~~ payable as provided in
5142 subsection (1).

5143 (II) Any remaining nonvested amount shall ~~must~~ be held in
5144 a suspense account and shall be ~~is~~ forfeitable after 5 years as
5145 provided in s. 121.4501(6).

5146 3. If present value was reassigned from the defined
5147 benefit program pension plan to the disability program of the
5148 Florida Retirement System as provided under subparagraph (a)2.,
5149 the full present value amount shall ~~must~~ be returned to the
5150 defined benefit account within the Florida Retirement System
5151 Trust Fund and the affected individual's member's associated
5152 retirement credit under the defined benefit program shall
5153 ~~pension plan must~~ be reinstated in full. Any benefit based upon
5154 such credit shall ~~must~~ be calculated as provided in s.
5155 121.091(4)(h)1.

5156 (l) *Nonadmissible causes of disability.*—A participant
5157 shall member is not be entitled to receive a disability
5158 retirement benefit if the disability results from any injury or
5159 disease sustained or inflicted as described in s. 121.091(4)(i).

5160 (m) *Disability retirement of justice or judge by order of*
5161 *Supreme Court.*—

5162 1. If a participant member is a justice of the Supreme

HB 1309

2012

5163 Court, judge of a district court of appeal, circuit judge, or
 5164 judge of a county court who has served for 6 years or more ~~the~~
 5165 ~~years equal to, or greater than, the vesting requirement in s.~~
 5166 ~~121.021(45)~~ as an elected constitutional judicial officer,
 5167 including service as a judicial officer in any court abolished
 5168 pursuant to Art. V of the State Constitution, and who is retired
 5169 for disability by order of the Supreme Court upon recommendation
 5170 of the Judicial Qualifications Commission pursuant to the
 5171 provisions of s. 12, Art. V of the State Constitution, the
 5172 participant's ~~member's~~ Option 1 monthly disability benefit
 5173 amount as provided in s. 121.091(6)(a)1. shall be two-thirds of
 5174 his or her monthly compensation as of the participant's ~~member's~~
 5175 disability retirement date. Such a participant ~~The member~~ may
 5176 alternatively elect to receive an actuarially adjusted
 5177 disability retirement benefit under any other option as provided
 5178 in s. 121.091(6)(a) or to receive the normal benefit payable
 5179 under the Public Employee Optional Retirement Program as set
 5180 forth in subsection (1).

5181 2. If any justice or judge who is a participant ~~member~~ of
 5182 the Public Employee Optional Retirement Program of the Florida
 5183 Retirement System ~~investment plan~~ is retired for disability by
 5184 order of the Supreme Court upon recommendation of the Judicial
 5185 Qualifications Commission pursuant to the provisions of s. 12,
 5186 Art. V of the State Constitution and elects to receive a monthly
 5187 disability benefit under the provisions of this paragraph:

5188 a. Any present value amount that was transferred to his or
 5189 her program ~~investment plan~~ account and all employer ~~and~~
 5190 ~~employee~~ contributions made to such account on his or her

5191 | behalf, plus interest and earnings thereon, shall ~~must~~ be
 5192 | transferred to and deposited in the disability account of the
 5193 | Florida Retirement System Trust Fund; and

5194 | b. The monthly ~~disability~~ benefits payable under this
 5195 | paragraph for any affected justice or judge retired from the
 5196 | Florida Retirement System pursuant to Art. V of the State
 5197 | Constitution shall be paid from the disability account of the
 5198 | Florida Retirement System Trust Fund.

5199 | (n) *Death of retiree or beneficiary.*—Upon the death of a
 5200 | disabled retiree or beneficiary thereof ~~of the retiree~~ who is
 5201 | receiving monthly ~~disability~~ benefits under this subsection, the
 5202 | monthly benefits shall be paid through the last day of the month
 5203 | of death and shall terminate, or be adjusted, if applicable, as
 5204 | of that date in accordance with the optional form of benefit
 5205 | selected at the time of retirement. The Department of Management
 5206 | Services may adopt rules necessary to administer this paragraph.

5207 | (3) DEATH BENEFITS.—Under the Public Employee Optional
 5208 | Retirement Program ~~Florida Retirement System Investment Plan~~:

5209 | (a) Survivor benefits shall be ~~are~~ payable in accordance
 5210 | with the following terms and conditions:

5211 | 1. To the extent vested, benefits shall be ~~are~~ payable
 5212 | only to a participant's ~~member's~~ beneficiary or beneficiaries as
 5213 | designated by the participant ~~member~~ as provided in s.
 5214 | 121.4501(20).

5215 | 2. Benefits shall be paid by the third-party administrator
 5216 | or designated approved providers in accordance with the law, the
 5217 | contracts, and any applicable ~~state~~ board rule or policy.

5218 | 3. To receive benefits under this subsection, the

5219 participant member must be deceased.

5220 (b) In the event of a participant's member's death, all
 5221 vested accumulations as described in s. 121.4501(6), less
 5222 withholding taxes remitted to the Internal Revenue Service,
 5223 shall be distributed, as provided in paragraph (c) or as
 5224 described in s. 121.4501(20), as if the participant member
 5225 retired on the date of death. No other death benefits ~~are~~ shall
 5226 be available for survivors of participants under the Public
 5227 Employee Optional Retirement Program members, except for such
 5228 benefits, or coverage for such benefits, as are otherwise
 5229 provided by law or are separately afforded ~~provided~~ by the
 5230 employer, at the employer's discretion.

5231 (c) Upon receipt by the third-party administrator of a
 5232 properly executed application for distribution of benefits, the
 5233 total accumulated benefit shall be ~~is~~ payable by the third-party
 5234 administrator to the participant's member's surviving
 5235 beneficiary or beneficiaries, as:

5236 1. A lump-sum distribution payable to the beneficiary or
 5237 beneficiaries, or to the deceased participant's member's estate;

5238 2. An eligible rollover distribution, ~~if permitted,~~ on
 5239 behalf of the surviving spouse of a deceased participant member,
 5240 whereby all accrued benefits, plus interest and investment
 5241 earnings, are paid from the deceased participant's member's
 5242 account directly to the custodian of an eligible retirement
 5243 plan, as described in s. 402(c)(8)(B) of the Internal Revenue
 5244 Code, on behalf of the surviving spouse; or

5245 3. A partial lump-sum payment whereby a portion of the
 5246 accrued benefit is paid to the deceased participant's member's

HB 1309

2012

5247 surviving spouse or other designated beneficiaries, less
 5248 withholding taxes remitted to the Internal Revenue Service, and
 5249 the remaining amount is transferred directly to the custodian of
 5250 an eligible retirement plan, ~~if permitted,~~ as described in s.
 5251 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
 5252 surviving spouse. The proportions must be specified by the
 5253 participant ~~member~~ or the surviving beneficiary.

5254
 5255 This paragraph does not abrogate other applicable provisions of
 5256 state or federal law providing for payment of death benefits.

5257 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to
 5258 any person under the Public Employee Optional Retirement Program
 5259 ~~Florida Retirement System Investment Plan~~, and any contributions
 5260 accumulated under such program ~~the plan~~, are not subject to
 5261 assignment, execution, attachment, or any legal process, except
 5262 for qualified domestic relations orders by a court of competent
 5263 jurisdiction, income deduction orders as provided in s. 61.1301,
 5264 and federal income tax levies.

5265 Section 31. Section 121.5911, Florida Statutes, is amended
 5266 to read:

5267 121.5911 Disability retirement program; qualified status;
 5268 rulemaking authority.—It is the intent of the Legislature that
 5269 the disability retirement program for participants ~~members~~
 5270 Public Employee Optional Retirement Program as created in this
 5271 act must of the ~~Florida Retirement System Investment Plan~~ meet
 5272 all applicable requirements of federal law for a qualified plan.
 5273 The Department of Management Services shall seek a private
 5274 letter ruling from the Internal Revenue Service on the

5275 disability retirement program for participants of the Public
 5276 Employee Optional Retirement Program. Consistent with the
 5277 private letter ruling, the Department of Management Services
 5278 shall adopt any necessary rules required ~~necessary~~ to maintain
 5279 the qualified status of the disability retirement program and
 5280 the Florida Retirement System Defined Benefit Pension Plan.

5281 Section 32. Section 121.70, Florida Statutes, is amended
 5282 to read:

5283 121.70 Legislative purpose and intent.—

5284 (1) This part provides for a uniform system for funding
 5285 benefits provided under the Florida Retirement System Defined
 5286 Benefit Program Pension Plan established under part I of this
 5287 chapter (referred to in this part as the defined benefit program
 5288 ~~pension plan~~) and under the Public Employee Optional Retirement
 5289 Program Florida Retirement System Investment Plan established
 5290 under part II of this chapter (referred to in this part as the
 5291 optional retirement program investment plan). The Legislature
 5292 recognizes and declares that the Florida Retirement System is a
 5293 single retirement system, consisting of two retirement plans and
 5294 other nonintegrated programs. ~~Employees and~~ Employers
 5295 participating in the Florida Retirement System collectively
 5296 shall be responsible for making contributions to support the
 5297 benefits afforded ~~provided~~ under both plans. As provided in this
 5298 part, The employees and employers participating in the Florida
 5299 Retirement System shall make contributions based upon uniform
 5300 contribution rates determined as a percentage of the total
 5301 payroll ~~employee's gross monthly compensation~~ for each the
 5302 ~~employee's~~ class or subclass of Florida Retirement System

5303 membership, irrespective of which ~~the~~ retirement plan ~~in which~~
 5304 ~~the individual~~ employees may elect ~~employee is enrolled~~. This
 5305 shall be known as a uniform or blended contribution rate system.

5306 (2) In establishing a uniform contribution rate system, it
 5307 is the intent of the Legislature to:

5308 (a) Provide greater stability and certainty in financial
 5309 planning and budgeting for Florida Retirement System employers
 5310 by eliminating the fiscal instability that would be caused by
 5311 dual rates coupled with employee-selected plan participation;

5312 (b) Provide greater fiscal equity and uniformity for
 5313 system employers by effectively distributing the financial
 5314 burden and benefit of short-term system deficits and surpluses,
 5315 respectively, in proportion to total system payroll; and

5316 (c) Allow employees to make their retirement plan
 5317 selection decisions free of circumstances that may cause
 5318 employers to favor one plan choice over another.

5319 Section 33. Section 121.71, Florida Statutes, is amended
 5320 to read:

5321 121.71 Uniform rates; process; calculations; levy.—

5322 (1) In conducting the system actuarial study required
 5323 under s. 121.031, the actuary shall follow all requirements
 5324 specified thereunder to determine, by Florida Retirement System
 5325 employee membership class, the dollar contribution amounts
 5326 necessary for the forthcoming ~~next~~ fiscal year for the defined
 5327 benefit program ~~pension plan~~. In addition, the actuary shall
 5328 determine, by Florida Retirement System membership class, based
 5329 on an estimate for the forthcoming ~~next~~ fiscal year of the gross
 5330 compensation of employees participating in the optional

HB 1309

2012

5331 retirement program investment plan, the dollar contribution
5332 amounts necessary to make the allocations required under ss.
5333 121.72 and 121.73. For each employee membership class and
5334 subclass, the actuarial study shall ~~must~~ establish a uniform
5335 rate necessary to fund the benefit obligations under both
5336 Florida Retirement System retirement plans by dividing the sum
5337 of total dollars required by the estimated gross compensation of
5338 members in both plans.

5339 (2) Based on the uniform rates set forth in subsection
5340 ~~subsections (3), (4), and (5)~~, employees and employers shall
5341 make monthly contributions to the Division of Retirement ~~as~~
5342 ~~required in s. 121.061(1)~~, which shall initially deposit the
5343 funds into the Florida Retirement System Contributions Clearing
5344 Trust Fund. A change in a contribution rate is effective the
5345 first day of the month for which a full month's employer ~~and~~
5346 ~~employee~~ contribution may be made on or after the beginning date
5347 of the change. ~~Beginning July 1, 2011, each employee shall~~
5348 ~~contribute the contributions required in subsection (3). The~~
5349 ~~employer shall deduct the contribution from the employee's~~
5350 ~~monthly salary, and the contribution shall be submitted to the~~
5351 ~~division. These contributions shall be reported as employer-paid~~
5352 ~~employee contributions, and credited to the account of the~~
5353 ~~employee. The contributions shall be deducted from the~~
5354 ~~employee's salary before the computation of applicable federal~~
5355 ~~taxes and treated as employer contributions under 26 U.S.C. s.~~
5356 ~~414(h) (2). The employer specifies that the contributions,~~
5357 ~~although designated as employee contributions, are being paid by~~
5358 ~~the employer in lieu of contributions by the employee. The~~

HB 1309

2012

5359 ~~employee does not have the option of choosing to receive the~~
 5360 ~~contributed amounts directly instead of having them paid by the~~
 5361 ~~employer to the plan. Such contributions are mandatory, and each~~
 5362 ~~employee is considered to have consented to payroll deductions.~~
 5363 ~~Payment of an employee's salary or wages, less the contribution,~~
 5364 ~~is a full and complete discharge and satisfaction of all claims~~
 5365 ~~and demands for the service rendered by employees during the~~
 5366 ~~period covered by the payment, except their claims to the~~
 5367 ~~benefits to which they may be entitled under this chapter.~~

5368 ~~(3) Required employee retirement contribution rates for~~
 5369 ~~each membership class and subclass of the Florida Retirement~~
 5370 ~~System for both retirement plans are as follows:~~

5371

Membership Class	Percentage of Gross Compensation, Effective July 1, 2011
5372	
5373 Regular Class	3.00%
5374 Special Risk Class	3.00%
5375 Special Risk Administrative	3.00%

HB 1309

2012

5376	Support Class		
	Elected Officers' Class		
	Legislators, Governor,		
	Lt. Governor,		
	Cabinet Officers,		
	State Attorneys,		
	Public Defenders		3.00%
5377	Elected Officers' Class		
	Justices, Judges		3.00%
5378	Elected Officers' Class		
	County Elected Officers		3.00%
5379	Senior Management Service Class		3.00%
5380	DROP		0.00%
5381			
5382	<u>(3)</u> (4) Required employer retirement contribution rates for		
5383	each membership class and subclass of the Florida Retirement		
5384	System for both retirement plans are as follows:		
5385			
	Membership Class	Percentage of	Percentage of
		Gross	Gross
		Compensation,	Compensation,
		Effective	Effective

HB 1309

2012

	July 1, <u>2012</u>	July 1, <u>2013</u>
	2011	2012
5386		
5387		
5388	Regular Class	<u>8.69%</u> 3.28% <u>9.63%</u> 3.28%
5389	Special Risk Class	<u>19.76%</u> 10.21% <u>22.11%</u> 10.21%
5390	Special Risk Administrative Support Class	<u>11.39%</u> 4.07% <u>12.10%</u> 4.07%
5391	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>13.32%</u> 7.02% <u>15.20%</u> 7.02%
5392	Elected Officers' Class— Justices, Judges	<u>18.40%</u> 9.78% <u>20.65%</u> 9.78%
5393	Elected Officers' Class— County Elected Officers	<u>15.37%</u> 9.27% <u>17.50%</u> 9.27%
5394	Senior Management Class	<u>11.96%</u> 4.81% <u>13.43%</u> 4.81%

HB 1309

2012

DROP 9.80% ~~3.31%~~ 11.14% ~~3.31%~~

5395

5396

5397

5398

5399

5400

~~(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:~~

Membership Class	Percentage of Gross Compensation, Effective July 1, 2011	Percentage of Gross Compensation, Effective July 1, 2012
-----------------------------	-------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------

5401

5402

Regular Class	0.49%	2.16%
--------------------------	------------------	------------------

5403

Special Risk Class	2.75%	8.21%
-------------------------------	------------------	------------------

5404

Special Risk Administrative Support Class	0.83%	21.40%
--------------------------------------------------------------	------------------	-------------------

5405

Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers,	0.88%	21.76%
--------------------------------------------------------------------------------------------------------	------------------	-------------------

HB 1309

2012

5406	State Attorneys, Public Defenders		
5407	Elected Officers' Class Justices, Judges	0.77%	12.86%
5408	Elected Officers' Class County Elected Officers	0.73%	22.05%
5409	Senior Management Service Class	0.32%	10.51%
5410	DROP	0.00%	6.36%

5411 ~~(6) If a member is reported under an incorrect membership~~
 5412 ~~class and the amount of contributions reported and remitted is~~
 5413 ~~less than the amount required, the employer shall owe the~~
 5414 ~~difference, plus the delinquent fee, of 1 percent for each~~
 5415 ~~calendar month or part thereof that the contributions should~~
 5416 ~~have been paid. The delinquent assessment may not be waived. If~~
 5417 ~~the contributions reported and remitted are more than the amount~~
 5418 ~~required, the employer shall receive a credit to be applied~~
 5419 ~~against future contributions owed.~~

5420 (4) ~~(7)~~ The state actuary shall recognize and use an
 5421 appropriate level of available excess assets of the Florida
 5422 Retirement System Trust Fund to offset the difference between
 5423 the normal costs of the Florida Retirement System and the
 5424 statutorily prescribed contribution rates.

5425 Section 34. Section 121.72, Florida Statutes, is amended
 5426 to read:

5427 121.72 Allocations to optional retirement program
 5428 participant investment plan member accounts; percentage
 5429 amounts.—

5430 (1) The allocations established in subsection (4) shall
 5431 fund retirement benefits under the optional retirement program
 5432 ~~investment plan~~ and shall be transferred monthly by the Division
 5433 of Retirement from the Florida Retirement System Contributions
 5434 Clearing Trust Fund to the third-party administrator for deposit
 5435 in each participating employee's individual account based on the
 5436 membership class of the participant.

5437 (2) The allocations are stated as a percentage of each
 5438 optional retirement program participant's investment plan
 5439 ~~member's~~ gross compensation for the calendar month. A change in
 5440 a contribution percentage is effective the first day of the
 5441 month for which a full month's employer contribution retirement
 5442 ~~contributions~~ may be made on or after the beginning date of the
 5443 change. Contribution percentages may be modified by general law.

5444 (3) Employer and participant employee contributions to
 5445 participant member accounts shall be accounted for separately.
 5446 Participant contributions may be made only if expressly
 5447 authorized by law. Interest and investment earnings on
 5448 contributions shall accrue on a tax-deferred basis until
 5449 proceeds are distributed.

5450 (4) Effective July 1, 2002, allocations from the Florida
 5451 Retirement System Contributions Clearing Trust Fund to optional
 5452 retirement program participant investment plan member accounts

HB 1309

2012

5453	<u>shall be</u> are as follows:	
	Membership Class	Percentage of Gross Compensation
5454	Regular Class	9.00%
5455	Special Risk Class	20.00%
5456	Special Risk Administrative Support Class	11.35%
5457	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.40%
5458	Elected Officers' Class— Justices, Judges	18.90%
5459	Elected Officers' Class— County Elected Officers	16.20%
5460	Senior Management Service Class	10.95%
5461		
5462	Section 35. Section 121.73, Florida Statutes, is amended	
5463	to read:	
5464	121.73 Allocations for <u>optional retirement program</u>	

HB 1309

2012

5465 participant ~~member~~ disability coverage; percentage amounts.—

5466 (1) The allocations established in subsection (3) shall be
 5467 used to provide disability coverage for participants ~~members~~ in
 5468 the optional retirement program ~~investment plan~~ and shall be
 5469 transferred monthly by the Division of Retirement from the
 5470 Florida Retirement System Contributions Clearing Trust Fund to
 5471 the disability account of the Florida Retirement System Trust
 5472 Fund.

5473 (2) The allocations are stated as a percentage of each
 5474 optional retirement program participant's ~~investment plan~~
 5475 ~~member's~~ gross compensation for the calendar month. A change in
 5476 a contribution percentage is effective the first day of the
 5477 month for which a full month's employer contribution ~~retirement~~
 5478 ~~contributions~~ may be made on or after the beginning date of the
 5479 change. Contribution percentages may be modified by general law.

5480 (3) Effective July 1, 2002, allocations from the FRS
 5481 Contribution ~~Florida Retirement System Contributions~~ Clearing
 5482 ~~Trust~~ Fund to provide disability coverage for participants
 5483 ~~members~~ in the optional retirement program ~~investment plan~~, and
 5484 to offset the costs of administering said coverage, shall be ~~are~~
 5485 as follows:

5486

Membership Class	Percentage of Gross Compensation
Regular Class	0.25%

5487

5488

HB 1309

2012

5489	Special Risk Class	1.33%
5490	Special Risk Administrative Support Class	0.45%
5491	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
5492	Elected Officers' Class— Justices, Judges	0.73%
5493	Elected Officers' Class— County Elected Officers	0.41%
5494	Senior Management Service Class	0.26%

5495 Section 36. Section 121.74, Florida Statutes, is amended
5496 to read:

5497 121.74 Administrative and educational expenses.—In
5498 addition to contributions required under s. ss. 121.71 and
5499 ~~121.73~~, effective July 1, 2010, through June 30, 2014, employers
5500 participating in the Florida Retirement System shall contribute
5501 an amount equal to 0.03 percent of the payroll reported for each
5502 class or subclass of Florida Retirement System membership-i
5503 Effective July 1, 2014, the contribution rate shall be 0.04
5504 percent of the payroll reported for each class or subclass of

HB 1309

2012

5505 membership. The amount contributed shall be transferred by the
 5506 Division of Retirement from the Florida Retirement System
 5507 Contributions Clearing Trust Fund to the State Board of
 5508 Administration's Administrative Trust Fund to offset the costs
 5509 of administering the optional retirement program investment plan
 5510 and the costs of providing educational services to participants
 5511 in the defined benefit program and the optional retirement
 5512 program ~~members of the Florida Retirement System~~. Approval of
 5513 the trustees is required before the expenditure of these funds.
 5514 Payments for third-party administrative or educational expenses
 5515 shall be made only pursuant to the terms of the approved
 5516 contracts for such services.

5517 Section 37. Section 121.75, Florida Statutes, is amended
 5518 to read:

5519 121.75 Allocation for defined benefit program ~~pension~~
 5520 ~~plan~~.—After making the transfers required pursuant to ss.
 5521 121.71, 121.72, 121.73, and 121.74, the monthly balance of funds
 5522 in the Florida Retirement System Contributions Clearing Trust
 5523 Fund shall be transferred to the Florida Retirement System Trust
 5524 Fund to pay the costs of providing defined benefit program
 5525 ~~pension plan~~ benefits and plan administrative costs under the
 5526 defined benefit program ~~pension plan~~.

5527 Section 38. Section 121.77, Florida Statutes, is amended
 5528 to read:

5529 121.77 Deductions from participant ~~member~~ accounts.—The
 5530 State Board of Administration may authorize the third-party
 5531 administrator to deduct reasonable fees and apply appropriate
 5532 charges to optional retirement program participant ~~investment~~

HB 1309

2012

5533 ~~plan member~~ accounts. In no event shall ~~may~~ administrative and
 5534 educational expenses exceed the portion of employer
 5535 contributions earmarked for such expenses under this part,
 5536 except for reasonable administrative charges assessed against
 5537 participant ~~member~~ accounts of persons for whom no employer
 5538 contributions are made during the calendar quarter. Investment
 5539 management fees shall be deducted from participant ~~member~~
 5540 accounts, pursuant to the terms of the contract between the
 5541 provider and the board.

5542 Section 39. Section 121.78, Florida Statutes, is amended
 5543 to read:

5544 121.78 Payment and distribution of contributions.—

5545 (1) Contributions made pursuant to this part shall be paid
 5546 by the employer, ~~including the employee contribution,~~ to the
 5547 Division of Retirement by electronic funds transfer no later
 5548 than the 5th working day of the month immediately after
 5549 ~~following~~ the month during which the payroll period ended.
 5550 Accompanying payroll data must be transmitted to the division
 5551 concurrent with the contributions.

5552 (2) The division, the State Board of Administration, and
 5553 the third-party administrator, as applicable, shall ensure that
 5554 the contributions are distributed to the appropriate trust funds
 5555 or participant accounts in a timely manner.

5556 (3) (a) ~~Employee and~~ employer contributions and
 5557 accompanying payroll data received after the 5th working day of
 5558 the month are considered late. The employer shall be assessed by
 5559 the Division of Retirement a penalty of 1 percent of the
 5560 contributions due for each calendar month or part thereof that

HB 1309

2012

5561 the contributions or accompanying payroll data are late.
5562 Proceeds from the 1-percent ~~1 percent~~ assessment against
5563 contributions made on behalf of participants ~~members~~ of the
5564 defined benefit program shall ~~pension plan must~~ be deposited in
5565 the Florida Retirement System Trust Fund, and proceeds from the
5566 1-percent ~~1 percent~~ assessment against contributions made on
5567 behalf of participants ~~members~~ of the optional retirement
5568 program ~~investment plan~~ shall be transferred to the third-party
5569 administrator for deposit into participant ~~member~~ accounts, as
5570 provided in paragraph (b) ~~(e)~~.

5571 ~~(b) Retirement contributions paid for a prior period shall~~
5572 ~~be charged a delinquent fee of 1 percent for each calendar month~~
5573 ~~or part thereof that the contributions should have been paid.~~
5574 ~~This includes prior period contributions due to incorrect wages~~
5575 ~~and contributions from an earlier report or wages and~~
5576 ~~contributions that should have been reported but were not. The~~
5577 ~~delinquent assessments may not be waived.~~

5578 (b)(e) If ~~employee contributions or~~ contributions made by
5579 an employer on behalf of participants ~~members~~ of the optional
5580 retirement program ~~investment plan~~ or accompanying payroll data
5581 are not received within the calendar month they are due,
5582 including, but not limited to, contribution adjustments as a
5583 result of employer errors or corrections, and if that
5584 delinquency results in market losses to participants ~~members~~,
5585 the employer shall reimburse each participant's ~~member's~~ account
5586 for market losses resulting from the late contributions. If a
5587 participant ~~member~~ has terminated employment and taken a
5588 distribution, the participant ~~member~~ is responsible for

HB 1309

2012

5589 | returning any excess contributions erroneously provided by
5590 | employers, adjusted for any investment gain or loss incurred
5591 | during the period such excess contributions were in the
5592 | participant's ~~member's~~ account. The state board or its
5593 | designated agent shall communicate to terminated participants
5594 | ~~members~~ any obligation to repay such excess contribution
5595 | amounts. However, the state board, its designated agents, the
5596 | Public Employee Optional Retirement Program ~~Florida Retirement~~
5597 | ~~System Investment Plan~~ Trust Fund, the department, or the
5598 | Florida Retirement System Trust Fund may not incur any loss or
5599 | gain as a result of an employer's correction of such excess
5600 | contributions. The third-party administrator, hired by the state
5601 | board pursuant to s. 121.4501(8), shall calculate the market
5602 | losses for each affected participant ~~member~~. If contributions
5603 | made on behalf of participants ~~members~~ of the optional
5604 | retirement program ~~investment plan~~ or accompanying payroll data
5605 | are not received within the calendar month due, the employer
5606 | shall also pay the cost of the third-party administrator's
5607 | calculation and reconciliation adjustments resulting from the
5608 | late contributions. The third-party administrator shall notify
5609 | the employer of the results of the calculations and the total
5610 | amount due from the employer for such losses and the costs of
5611 | calculation and reconciliation. The employer shall remit to the
5612 | Division of Retirement the amount due within 30 working days
5613 | after the date of the penalty notice sent by the division. The
5614 | division shall transfer that amount to the third-party
5615 | administrator, which shall deposit proceeds from the 1 percent
5616 | assessment and from individual market losses into participant

HB 1309

2012

5617 ~~member~~ accounts, as appropriate. The state board may adopt rules
5618 to administer the provisions regarding late contributions, late
5619 submission of payroll data, the process for reimbursing
5620 participant ~~member~~ accounts for resultant market losses, and the
5621 penalties charged to the employers.

5622 ~~(d) If employee contributions reported by an employer on~~
5623 ~~behalf of members are reduced as a result of employer errors or~~
5624 ~~corrections, and the member has terminated employment and taken~~
5625 ~~a refund or distribution, the employer shall be billed and is~~
5626 ~~responsible for recovering from the member any excess~~
5627 ~~contributions erroneously provided by the employer.~~

5628 ~~(c)(e)~~ Delinquency fees ~~specified in paragraph (a)~~ may be
5629 waived by the Division of Retirement, with regard to ~~pension~~
5630 ~~plan~~ defined benefit program contributions, and by the state
5631 board, with regard to optional retirement program investment
5632 ~~plan~~ contributions, only if, in the opinion of the division or
5633 the board, as appropriate, exceptional circumstances beyond the
5634 employer's control prevented remittance by the prescribed due
5635 date notwithstanding the employer's good faith efforts to effect
5636 delivery. Such a waiver of delinquency may be granted an
5637 employer only once each state fiscal ~~plan~~ year.

5638 ~~(f) If the employer submits excess employer or employee~~
5639 ~~contributions, the employer shall receive a credit to be applied~~
5640 ~~against future contributions owed. The employer is responsible~~
5641 ~~for reimbursing the member for any excess contributions~~
5642 ~~submitted if any return of such an erroneous excess pretax~~
5643 ~~contribution by the program is made within 1 year after making~~
5644 ~~erroneous contributions or such other period allowed under~~

5645 ~~applicable Internal Revenue guidance.~~

5646 (d) ~~(g)~~ If contributions made by an employer on behalf of
 5647 participants members in the optional retirement program
 5648 ~~investment plan~~ are delayed in posting to participant member
 5649 accounts due to acts of God beyond the control of the Division
 5650 of Retirement, the state board, or the third-party
 5651 administrator, as applicable, market losses resulting from the
 5652 late contributions are not payable to the participants members.

5653 Section 40. Paragraph (a) of subsection (4), paragraph (b)
 5654 of subsection (5), and subsection (7) of section 1012.875,
 5655 Florida Statutes, are amended to read:

5656 1012.875 State Community College System Optional
 5657 Retirement Program.—Each Florida College System institution may
 5658 implement an optional retirement program, if such program is
 5659 established therefor pursuant to s. 1001.64(20), under which
 5660 annuity or other contracts providing retirement and death
 5661 benefits may be purchased by, and on behalf of, eligible
 5662 employees who participate in the program, in accordance with s.
 5663 403(b) of the Internal Revenue Code. Except as otherwise
 5664 provided herein, this retirement program, which shall be known
 5665 as the State Community College System Optional Retirement
 5666 Program, may be implemented and administered only by an
 5667 individual Florida College System institution or by a consortium
 5668 of Florida College System institutions.

5669 ~~(4) (a) 1. Through June 30, 2011,~~ Each college must
 5670 contribute on behalf of each program participant member an
 5671 amount equal to 10.43 percent of the participant's ~~employee's~~
 5672 gross monthly compensation.

HB 1309

2012

5673 ~~2. Effective July 1, 2011, each member shall contribute an~~
5674 ~~amount equal to the employee contribution required under s.~~
5675 ~~121.71(3). The employer shall contribute on behalf of each~~
5676 ~~program member an amount equal to the difference between 10.43~~
5677 ~~percent of the employee's gross monthly compensation and the~~
5678 ~~employee's required contribution based on the employee's gross~~
5679 ~~monthly compensation.~~

5680 ~~3.~~ The college shall deduct an amount approved by the
5681 district board of trustees of the college to provide for the
5682 administration of the optional retirement program. Payment of
5683 this contribution must be made either directly by the college or
5684 through the program administrator to the designated company
5685 contracting for payment of benefits to the program participant
5686 ~~member.~~

5687 (5)

5688 (b) Benefits are payable under the optional retirement
5689 program to program participants or their beneficiaries and the
5690 benefits must be paid only by the designated company in
5691 accordance with the terms of the contracts applicable to the
5692 program participant. Benefits shall accrue in individual
5693 accounts that are participant-directed, portable, and funded by
5694 employer ~~and employee~~ contributions and the earnings thereon.
5695 Benefits funded by employer ~~and employee~~ contributions are
5696 payable in accordance with the following terms and conditions:

5697 1. Benefits shall be payable only to a participant, to his
5698 or her beneficiaries, or to his or her estate, as designated by
5699 the participant.

5700 2. Benefits shall be paid by the provider company or

5701 companies in accordance with the law, the provisions of the
 5702 contract, and any applicable employer rule or policy.

5703 3. In the event of a participant's death, moneys
 5704 accumulated by, or on behalf of, the participant, less
 5705 withholding taxes remitted to the Internal Revenue Service, if
 5706 any, shall be distributed to the participant's designated
 5707 beneficiary or beneficiaries, or to the participant's estate, as
 5708 if the participant retired on the date of death as provided in
 5709 paragraph (d). No other death benefits shall be ~~are~~ available
 5710 for survivors of participants under the optional retirement
 5711 program except for such benefits, or coverage for such benefits,
 5712 as are separately afforded by the employer at the employer's
 5713 discretion.

5714 ~~(7) Benefits, including employee contributions, are not~~
 5715 ~~payable for employee hardships, unforeseeable emergencies,~~
 5716 ~~loans, medical expenses, educational expenses, purchase of a~~
 5717 ~~principal residence, payments necessary to prevent eviction or~~
 5718 ~~foreclosure on an employee's principal residence, or any other~~
 5719 ~~reason before termination from all employment relationships with~~
 5720 ~~participating employers for 3 calendar months.~~

5721 Section 41. Employee contributions plus interest made by
 5722 participants between July 1, 2011, and June 30, 2012, shall be
 5723 reimbursed to the participants at the actuarial assumption rate
 5724 as determined by the Division of Retirement.

5725 Section 42. The Legislature finds that a proper and
 5726 legitimate state purpose is served when employees and retirees
 5727 of the state and its political subdivisions, and the dependents,
 5728 survivors, and beneficiaries of such employees and retirees, are

HB 1309

2012

5729 extended the basic protections afforded by governmental
5730 retirement systems. These persons must be provided benefits that
5731 are fair and adequate and that are managed, administered, and
5732 funded in an actuarially sound manner, as required by s. 14,
5733 Article X of the State Constitution and part VII of chapter 112,
5734 Florida Statutes. Therefore, the Legislature determines and
5735 declares that this act fulfills an important state interest.

5736 Section 43. This act shall take effect July 1, 2012.