

By Senator Siplin

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1 A bill to be entitled
2 An act relating to retirement; amending ss. 110.123,
3 112.0801, 112.363, 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

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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

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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

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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

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.

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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;
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

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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,

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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
 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

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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
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

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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 Optional
 261 Retirement Program investment plan established under part II of

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262 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

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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 member
305 of the Public Employee Optional Retirement Program investment
306 ~~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

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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 shall be ~~is~~ 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 benefit
335 or pension payable to a retiree who becomes a member of any
336 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

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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

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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) of
385 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," 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

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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
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

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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.

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~~

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465 include:

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

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

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

475 1. ~~For members initially enrolled before July 1, 2011,~~ the
476 average of the 5 highest fiscal years of compensation for
477 creditable service before retirement, termination, or death. For
478 in-line-of-duty disability benefits, if less than 5 years of
479 creditable service have been completed, the term "average final
480 compensation" means the average annual compensation of the total
481 number of years of creditable service. Each year used in the
482 calculation of ~~to calculate the~~ average final compensation shall
483 commence ~~commences~~ on July 1.

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

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

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- 494 1. Accumulated annual leave payments, not to exceed 500
 495 hours; and
- 496 2. All payments defined as compensation in subsection (22).
 497 (b)~~(e)~~ The average final compensation shall ~~does~~ not
 498 include:
- 499 1. Compensation paid to professional persons for special or
 500 particular services;
- 501 2. Payments for accumulated sick leave made due to
 502 retirement or termination;
- 503 3. Payments for accumulated annual leave in excess of 500
 504 hours;
- 505 4. Bonuses as defined in subsection (47);
- 506 5. Third party payments made on and after July 1, 1990; or
- 507 6. Fringe benefits (for example, automobile allowances or
 508 housing allowances).
- 509 (29) "Normal retirement date" means the date a member
 510 attains normal retirement age and is vested, which is determined
 511 as follows:
- 512 ~~(a)~~1. If a Regular Class member, a Senior Management
 513 Service Class member, or an Elected Officers' Class member
 514 ~~initially enrolled before July 1, 2011:~~
- 515 1.a. The first day of the month the member completes 6 or
 516 more years of creditable service and attains age 62; or
- 517 2.b. The first day of the month after ~~following~~ the date
 518 the member completes 30 years of creditable service, regardless
 519 of age.
- 520 ~~2. If a Regular Class member, a Senior Management Service~~
 521 ~~Class member, or an Elected Officers' Class member initially~~
 522 ~~enrolled on or after July 1, 2011:~~

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523 ~~a. The first day of the month the member attains age 65; or~~
524 ~~b. The first day of the month following the date the member~~
525 ~~completes 33 years of creditable service, regardless of age.~~

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

528 ~~1.a.~~ The first day of the month the member completes 6 or
529 more years of creditable service in the Special Risk Class and
530 ~~attains age 55 and completes the years of creditable service in~~
531 ~~the Special Risk Class equal to or greater than the years of~~
532 ~~service required for vesting;~~

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

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

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

544 ~~a.~~ The first day of the month the member attains age 60 and
545 ~~completes the years of creditable service in the Special Risk~~
546 ~~Class equal to or greater than the years of service required for~~
547 ~~vesting;~~

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

551 ~~e.~~ The first day of the month following the date the member

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552 ~~completes 30 years of creditable service and attains age 57,~~
553 ~~which service may include a maximum of 4 years of military~~
554 ~~service credit if such credit is not claimed under any other~~
555 ~~system and the remaining years are in the Special Risk Class.~~

556
557 "Normal retirement age" is attained on the "normal retirement
558 date."

559 (38) "Continuous service" means creditable service as a
560 member, beginning with the first day of employment with an
561 employer covered under a state-administered retirement system
562 consolidated herein and continuing for as long as the member
563 remains in an employer-employee relationship with an employer
564 covered under this chapter. An absence of 1 calendar month or
565 more from an employer's payroll shall be considered a break in
566 continuous service, except for periods of absence during which
567 an employer-employee relationship continues to exist and such
568 period of absence is creditable under this chapter or under one
569 of the existing systems consolidated herein. However, a law
570 enforcement officer as defined in s. 121.0515 (2) ~~(3)~~ (a) who was a
571 member of a state-administered retirement system under chapter
572 122 or chapter 321 and who resigned and was subsequently
573 reemployed in a law enforcement position within 12 calendar
574 months of such resignation by an employer under such state-
575 administered retirement system shall be deemed to have not
576 experienced a break in service. Further, with respect to a
577 state-employed law enforcement officer who meets the criteria
578 specified in s. 121.0515 (2) ~~(3)~~ (a), if the absence from the
579 employer's payroll is the result of a "layoff" as defined in s.
580 110.107 or a resignation to run for an elected office that meets

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581 the criteria specified in s. 121.0515(2)~~(3)~~(a), no break in
582 continuous service shall be deemed to have occurred if the
583 member is reemployed as a state law enforcement officer or is
584 elected to an office which meets the criteria specified in s.
585 121.0515(2)~~(3)~~(a) within 12 calendar months after the date of
586 the layoff or resignation, notwithstanding the fact that such
587 period of layoff or resignation is not creditable service under
588 this chapter. A withdrawal of contributions will constitute a
589 break in service. Continuous service also includes past service
590 purchased under this chapter, provided such service is
591 continuous within this definition and the rules established by
592 the administrator. The administrator may establish
593 administrative rules and procedures for applying this definition
594 to creditable service authorized under this chapter. Any
595 correctional officer, as defined in s. 943.10, whose
596 participation in the state-administered retirement system is
597 terminated due to the transfer of a county detention facility
598 through a contractual agreement with a private entity pursuant
599 to s. 951.062, shall be deemed an employee with continuous
600 service in the Special Risk Class, provided return to employment
601 with the former employer takes place within 3 years due to
602 contract termination or the officer is employed by a covered
603 employer in a special risk position within 1 year after his or
604 her initial termination of employment by such transfer of its
605 detention facilities to the private entity.

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

609 1. For retirements effective before July 1, 2010, if a

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610 member is employed by any such employer within the next calendar
611 month, termination shall be deemed not to have occurred. A leave
612 of absence constitutes a continuation of the employment
613 relationship, except that a leave of absence without pay due to
614 disability may constitute termination if such member makes
615 application for and is approved for disability retirement in
616 accordance with s. 121.091(4). The department or state board may
617 require other evidence of termination as it deems necessary.

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

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

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

638 2. For termination dates occurring on or after July 1,

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639 2010, if the participant ~~member~~ becomes employed by any such
640 employer within the next 6 calendar months, termination will be
641 deemed not to have occurred, except as provided in s.
642 121.091(13)(b)4.c. A leave of absence constitutes a continuation
643 of the employment relationship.

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

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

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

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

665 2. Any member not employed in a regularly established
666 position on July 1, 2001, shall be deemed vested upon completion
667 of 6 years of creditable service, provided that ~~if~~ such member

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668 is employed in a covered position for at least 1 work year after
669 July 1, 2001. However, no a member shall be ~~is not~~ required to
670 complete more years of creditable service than would have been
671 required for that member to vest under retirement laws in effect
672 before July 1, 2001.

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

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

679 (55) "Benefit" means any ~~pension~~ payment, lump-sum or
680 periodic, to a member, retiree, or beneficiary, based partially
681 or entirely on employer contributions ~~or employee contributions,~~
682 ~~if applicable.~~

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

685 Section 7. Paragraphs (b) and (c) of subsection (2) and
686 subsection (3) of section 121.051, Florida Statutes, are amended
687 to read:

688 121.051 Participation in the system.-

689 (2) OPTIONAL PARTICIPATION.-

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

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

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

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726 referendum is held, all future employees shall be ~~are~~ compulsory
727 members of the Florida Retirement System.

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

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

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

750 a. No more than 30 days and at least 7 days before adopting
751 a resolution to partially withdraw from the Florida Retirement
752 System and establish an alternative retirement plan for future
753 employees, a public hearing must be held on the proposed
754 withdrawal and proposed alternative plan.

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

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

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

780 6. After ~~Following~~ the adoption of a resolution under sub-
781 subparagraph 5.d., all employees of the withdrawing hospital
782 district who were participants in ~~members of~~ the Florida
783 Retirement System prior to ~~before~~ January 1, 1996, shall remain

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

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

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

809 ~~b.~~ Effective July 1, 2001, ~~through June 30, 2011,~~ each
810 employer shall contribute on behalf of each participant in
811 ~~member of~~ the optional program an amount equal to 10.43 percent
812 of the participant's ~~employee's~~ gross monthly compensation. The

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813 employer shall deduct an amount for the administration of the
814 program.

815 ~~e. Effective July 1, 2011, each member shall contribute an~~
816 ~~amount equal to the employee contribution required under s.~~
817 ~~121.71(3). The employer shall contribute on behalf of each~~
818 ~~program member an amount equal to the difference between 10.43~~
819 ~~percent of the employee's gross monthly compensation and the~~
820 ~~employee's required contribution based on the employee's gross~~
821 ~~monthly compensation.~~

822 ~~d.~~ The employer shall contribute an additional amount to
823 the Florida Retirement System Trust Fund equal to the unfunded
824 actuarial accrued liability portion of the Regular Class
825 contribution rate.

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

833 3. An employee who has elected to participate in the
834 optional retirement program shall have one opportunity, at the
835 employee's discretion, to transfer from the optional retirement
836 program to the defined benefit program ~~pension plan~~ of the
837 Florida Retirement System or to the Public Employee Optional
838 Retirement Program ~~investment plan established under part II of~~
839 ~~this chapter~~, subject to the terms of the applicable optional
840 retirement program contracts.

841 a. If the employee chooses to move to the Public Employee

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842 Optional Retirement Program ~~investment plan~~, any contributions,
843 interest, and earnings creditable to the employee under the
844 State Community College System optional retirement program are
845 retained by the employee in the State Community College System
846 optional retirement program, and the applicable provisions of s.
847 121.4501(4) govern the election.

848 b. If the employee chooses to move to the defined benefit
849 program ~~pension plan~~ of the Florida Retirement System, the
850 employee shall receive service credit equal to his or her years
851 of service under the State Community College System optional
852 retirement program.

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

869 (II) The employee must transfer from his or her State
870 Community College System optional retirement program account and

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871 from other employee moneys as necessary, a sum representing the
872 present value of the employee's accumulated benefit obligation
873 immediately after ~~following~~ the time of such movement,
874 determined assuming that attained service equals the sum of
875 service in the defined benefit program ~~pension plan~~ and service
876 in the State Community College System optional retirement
877 program.

878 4. Participation in the optional retirement program is
879 limited to employees who satisfy the following eligibility
880 criteria:

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

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

888 (I) Instructional; or

889 (II) Executive Management, Instructional Management, or
890 Institutional Management, if a ~~and the~~ community college
891 determines that recruiting to fill a vacancy in the position is
892 to be conducted in the national or regional market, and the
893 duties and responsibilities of the position include the
894 formulation, interpretation, or implementation of policies, or
895 the performance of functions that are unique or specialized
896 within higher education and that frequently support the mission
897 of the community college.

898 c. The employee must be ~~is~~ employed in a position not
899 included in the Senior Management Service Class of the Florida

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900 Retirement System, as described in s. 121.055.

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

911 6. Eligible community college employees are compulsory
912 members of the Florida Retirement System until, pursuant to s.
913 1012.875, a written election to withdraw from the system and
914 participate in the State Community College System optional
915 retirement program is filed with the program administrator and
916 received by the division.

917 a. A community college employee whose program eligibility
918 results from initial employment must ~~shall~~ be enrolled in the
919 State Community College System optional retirement program
920 retroactive to the first day of eligible employment. The
921 employer ~~and employee~~ retirement contributions paid through the
922 month of the employee plan change shall be transferred to the
923 community college to the employee's optional program account,
924 and, effective the first day of the next month, the employer
925 shall pay the applicable contributions based upon subparagraph
926 1.

927 b. A community college employee whose program eligibility
928 is due to the subsequent designation of the employee's position

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

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

955 (3) SOCIAL SECURITY COVERAGE.—Social security coverage
956 shall be provided for all officers and employees who become
957 members under the provisions of subsection (1) or subsection

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

970 Section 8. Section 121.0515, Florida Statutes, is amended
 971 to read:

972 121.0515 Special Risk Membership Class.-

973 (1) LEGISLATIVE INTENT ESTABLISHMENT OF CLASS.-In creating
 974 the Special Risk ~~A separate~~ class of membership within the
 975 Florida Retirement System, it is the intent and purpose of the
 976 Legislature ~~to be known as the "Special Risk Class,"~~ ~~is~~
 977 ~~established~~ to recognize that persons employed in certain
 978 categories of law enforcement, firefighting, criminal detention,
 979 and emergency medical care positions are required as one of the
 980 essential functions of their positions to perform work that is
 981 physically demanding or arduous, or work that requires
 982 extraordinary agility and mental acuity, and that such persons,
 983 because of diminishing physical and mental faculties, may find
 984 that they are not able, without risk to the health and safety of
 985 themselves, the public, or their coworkers, to continue
 986 performing such duties and thus enjoy the full career and

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987 retirement benefits enjoyed by persons employed in other
988 positions ~~membership classes~~ and that, if they find it
989 necessary, due to the physical and mental limitations of their
990 age, to retire at an earlier age and usually with less service,
991 they will suffer an economic deprivation therefrom. Therefore,
992 as a means of recognizing ~~To address~~ the peculiar and special
993 problems of this class of employees, it is the intent and
994 purpose of the Legislature to establish a class of retirement
995 membership ~~is established~~ that awards more retirement credit per
996 year of service than that awarded to other employees; however,
997 nothing contained herein shall require ineligibility for Special
998 Risk Class membership upon reaching age 55.

999 ~~(2) MEMBERSHIP.—~~

1000 ~~(a) Until October 1, 1978, "special risk member" means any~~
1001 ~~officer or employee whose application is approved by the~~
1002 ~~administrator and who receives salary payments for work~~
1003 ~~performed as a peace officer; law enforcement officer; police~~
1004 ~~officer; highway patrol officer; custodial employee at a~~
1005 ~~correctional or detention facility; correctional agency employee~~
1006 ~~whose duties and responsibilities involve direct contact with~~
1007 ~~inmates, but excluding secretarial and clerical employees;~~
1008 ~~firefighter; or an employee in any other job in the field of law~~
1009 ~~enforcement or fire protection if the duties of such person are~~
1010 ~~certified as hazardous by his or her employer.~~

1011 ~~(b) Effective October 1, 1978, through September 30, 1999,~~
1012 ~~"special risk member" means a member of the Florida Retirement~~
1013 ~~System who is designated as a special risk member by the~~
1014 ~~division in accordance with this section. Such member must be~~
1015 ~~employed as a law enforcement officer, a firefighter, or a~~

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1016 ~~correctional officer and must meet certain other special~~
1017 ~~criteria as set forth in this section.~~

1018 ~~(c) Effective October 1, 1999, "special risk member" means~~
1019 ~~a member of the Florida Retirement System who is designated as a~~
1020 ~~special risk member by the division in accordance with this~~
1021 ~~section. Such member must be employed as a law enforcement~~
1022 ~~officer, a firefighter, a correctional officer, an emergency~~
1023 ~~medical technician, or a paramedic and must meet certain other~~
1024 ~~special criteria as set forth in this section.~~

1025 ~~(d) Effective January 1, 2001, "special risk member"~~
1026 ~~includes:~~

1027 ~~1. Any member who is employed as a community-based~~
1028 ~~correctional probation officer and meets the special criteria~~
1029 ~~set forth in paragraph (3) (e).~~

1030 ~~2. Any professional health care bargaining unit or non-unit~~
1031 ~~member who is employed by the Department of Corrections or the~~
1032 ~~Department of Children and Family Services and meets the special~~
1033 ~~criteria set forth in paragraph (3) (f).~~

1034 ~~(e) Effective July 1, 2001, "special risk member" includes~~
1035 ~~any member who is employed as a youth custody officer by the~~
1036 ~~Department of Juvenile Justice and meets the special criteria~~
1037 ~~set forth in paragraph (3) (g).~~

1038 ~~(f) Effective October 1, 2005, through June 30, 2008, the~~
1039 ~~member must be employed by a law enforcement agency or medical~~
1040 ~~examiner's office in a forensic discipline and meet the special~~
1041 ~~criteria set forth in paragraph (3) (h).~~

1042 ~~(g) Effective July 1, 2008, the member must be employed by~~
1043 ~~the Department of Law Enforcement in the crime laboratory or by~~
1044 ~~the Division of State Fire Marshal in the forensic laboratory~~

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1045 and meet the special criteria set forth in paragraph ~~(3)(i)~~.

1046 ~~(h) Effective July 1, 2008, the member must be employed by~~
1047 ~~a local government law enforcement agency or medical examiner's~~
1048 ~~office and meet the special criteria set forth in paragraph~~
1049 ~~(3)(j).~~

1050 ~~(i) Effective August 1, 2008, "special risk member"~~
1051 ~~includes any member who meets the special criteria for continued~~
1052 ~~membership set forth in paragraph (3)(k).~~

1053 ~~(2)(3)~~ CRITERIA.—A member, to be designated as a special
1054 risk member, must meet the following criteria:

1055 ~~(a) Effective October 1, 1978,~~ The member must be employed
1056 as a law enforcement officer and be certified, or required to be
1057 certified, in compliance with s. 943.1395; however, sheriffs and
1058 elected police chiefs shall be ~~are~~ excluded from meeting the
1059 certification requirements of this paragraph. In addition, the
1060 member's duties and responsibilities must include the pursuit,
1061 apprehension, and arrest of law violators or suspected law
1062 violators; or ~~as of July 1, 1982,~~ the member must be an active
1063 member of a bomb disposal unit whose primary responsibility is
1064 the location, handling, and disposal of explosive devices; or
1065 the member must be the supervisor or command officer of a member
1066 or members who have such responsibilities; provided, however, ~~-~~
1067 administrative support personnel, including, but not limited to,
1068 those whose primary duties and responsibilities are in
1069 accounting, purchasing, legal, and personnel, shall ~~are~~ not be
1070 included;

1071 ~~(b) Effective October 1, 1978,~~ The member must be employed
1072 as a firefighter and be certified, or required to be certified,
1073 in compliance with s. 633.35 and be employed solely within the

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1074 fire department of a local government employer or an agency of
1075 state government with firefighting responsibilities. In
1076 addition, the member's duties and responsibilities must include
1077 on-the-scene fighting of fires; ~~as of October 1, 2001,~~ fire
1078 prevention, or firefighter training; as of October 1, 2001,
1079 direct supervision of firefighting units, fire prevention, or
1080 firefighter training; or ~~as of July 1, 2001,~~ aerial firefighting
1081 surveillance performed by fixed-wing aircraft pilots employed by
1082 the Division of Forestry of the Department of Agriculture and
1083 Consumer Services; or the member must be the supervisor or
1084 command officer of a member or members who have such
1085 responsibilities; provided, however, administrative support
1086 personnel, including, but not limited to, those whose primary
1087 duties and responsibilities are in accounting, purchasing,
1088 legal, and personnel, shall are not be included and further
1089 provided that, all periods of creditable service in fire
1090 prevention or firefighter training, or as the supervisor or
1091 command officer of a member or members who have such
1092 responsibilities, and for which the employer paid the special
1093 risk contribution rate, shall be are included;

1094 (c) ~~Effective October 1, 1978,~~ The member must be employed
1095 as a correctional officer and be certified, or required to be
1096 certified, in compliance with s. 943.1395. In addition, the
1097 member's primary duties and responsibilities must be the
1098 custody, and physical restraint when necessary, of prisoners or
1099 inmates within a prison, jail, or other criminal detention
1100 facility, or while on work detail outside the facility, or while
1101 being transported; or ~~as of July 1, 1984,~~ the member must be the
1102 supervisor or command officer of a member or members who have

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1103 such responsibilities; provided, however, administrative
1104 support personnel, including, but not limited to, those whose
1105 primary duties and responsibilities are in accounting,
1106 purchasing, legal, and personnel, shall ~~are~~ not be included;
1107 however, wardens and assistant wardens, as defined by rule,
1108 shall participate in the Special Risk Class ~~are included~~;

1109 (d) ~~Effective October 1, 1999,~~ The member must be employed
1110 by a licensed Advance Life Support (ALS) or Basic Life Support
1111 (BLS) employer as an emergency medical technician or a paramedic
1112 and be certified in compliance with s. 401.27. In addition, the
1113 member's primary duties and responsibilities must include on-
1114 the-scene emergency medical care or ~~as of October 1, 2001,~~
1115 direct supervision of emergency medical technicians or
1116 paramedics, or the member must be the supervisor or command
1117 officer of one or more members who have such responsibility.
1118 However, administrative support personnel, including, but not
1119 limited to, those whose primary responsibilities are in
1120 accounting, purchasing, legal, and personnel, shall ~~are~~ not be
1121 included;

1122 (e) ~~Effective January 1, 2001,~~ The member must be employed
1123 as a community-based correctional probation officer and be
1124 certified, or required to be certified, in compliance with s.
1125 943.1395. In addition, the member's primary duties and
1126 responsibilities must be the supervised custody, surveillance,
1127 control, investigation, and counseling of assigned inmates,
1128 probationers, parolees, or community controllees within the
1129 community; or the member must be the supervisor of a member or
1130 members who have such responsibilities. Administrative support
1131 personnel, including, but not limited to, those whose primary

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1132 duties and responsibilities are in accounting, purchasing, legal
1133 services, and personnel management, shall ~~are~~ not be included;
1134 however, probation and parole circuit and deputy circuit
1135 administrators shall participate in the Special Risk Class ~~are~~
1136 ~~included~~;

1137 (f) ~~Effective January 1, 2001,~~ The member must be employed
1138 in one of the following classes and must spend at least 75
1139 percent of his or her time performing duties which involve
1140 contact with patients or inmates in a correctional or forensic
1141 facility or institution:

- 1142 1. Dietitian (class codes 5203 and 5204);
- 1143 2. Public health nutrition consultant (class code 5224);
- 1144 3. Psychological specialist (class codes 5230 and 5231);
- 1145 4. Psychologist (class code 5234);
- 1146 5. Senior psychologist (class codes 5237 and 5238);
- 1147 6. Regional mental health consultant (class code 5240);
- 1148 7. Psychological Services Director-DCF (class code 5242);
- 1149 8. Pharmacist (class codes 5245 and 5246);
- 1150 9. Senior pharmacist (class codes 5248 and 5249);
- 1151 10. Dentist (class code 5266);
- 1152 11. Senior dentist (class code 5269);
- 1153 12. Registered nurse (class codes 5290 and 5291);
- 1154 13. Senior registered nurse (class codes 5292 and 5293);
- 1155 14. Registered nurse specialist (class codes 5294 and
1156 5295);
- 1157 15. Clinical associate (class codes 5298 and 5299);
- 1158 16. Advanced registered nurse practitioner (class codes
1159 5297 and 5300);
- 1160 17. Advanced registered nurse practitioner specialist

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1161 (class codes 5304 and 5305);

1162 18. Registered nurse supervisor (class codes 5306 and
1163 5307);

1164 19. Senior registered nurse supervisor (class codes 5308
1165 and 5309);

1166 20. Registered nursing consultant (class codes 5312 and
1167 5313);

1168 21. Quality management program supervisor (class code
1169 5314);

1170 22. Executive nursing director (class codes 5320 and 5321);

1171 23. Speech and hearing therapist (class code 5406); or

1172 24. Pharmacy manager (class code 5251);

1173 (g) ~~Effective July 1, 2001,~~ The member must be employed as
1174 a youth custody officer and be certified, or required to be
1175 certified, in compliance with s. 943.1395. In addition, the
1176 member's primary duties and responsibilities must be the
1177 supervised custody, surveillance, control, investigation,
1178 apprehension, arrest, and counseling of assigned juveniles
1179 within the community;

1180 (h) Effective October 1, 2005, through June 30, 2008, the
1181 member must be employed by a law enforcement agency or medical
1182 examiner's office in a forensic discipline recognized by the
1183 International Association for Identification and must qualify
1184 for active membership in the International Association for
1185 Identification. The member's primary duties and responsibilities
1186 must include the collection, examination, preservation,
1187 documentation, preparation, or analysis of physical evidence or
1188 testimony, or both, or the member must be the direct supervisor,
1189 quality management supervisor, or command officer of one or more

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1190 individuals with such responsibility. Administrative support
1191 personnel, including, but not limited to, those whose primary
1192 responsibilities are clerical or in accounting, purchasing,
1193 legal, and personnel, shall ~~are~~ not be included;

1194 (i) Effective July 1, 2008, the member must be employed by
1195 the Department of Law Enforcement in the crime laboratory or by
1196 the Division of State Fire Marshal in the forensic laboratory in
1197 one of the following classes:

- 1198 1. Forensic technologist (class code 8459);
- 1199 2. Crime laboratory technician (class code 8461);
- 1200 3. Crime laboratory analyst (class code 8463);
- 1201 4. Senior crime laboratory analyst (class code 8464);
- 1202 5. Crime laboratory analyst supervisor (class code 8466);
- 1203 6. Forensic chief (class code 9602); or
- 1204 7. Forensic services quality manager (class code 9603);

1205 (j) Effective July 1, 2008, the member must be employed by
1206 a local government law enforcement agency or medical examiner's
1207 office and must spend at least 65 percent of his or her time
1208 performing duties that involve the collection, examination,
1209 preservation, documentation, preparation, or analysis of human
1210 tissues or fluids or physical evidence having potential
1211 biological, chemical, or radiological hazard or contamination,
1212 or use chemicals, processes, or materials that may have
1213 carcinogenic or health-damaging properties in the analysis of
1214 such evidence, or the member must be the direct supervisor of
1215 one or more individuals having such responsibility. If a special
1216 risk member changes to another position within the same agency,
1217 he or she must submit a complete application as provided in
1218 paragraph (3)~~(4)~~(a); or

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1219 (k) The member must have already qualified for and be
1220 actively participating in special risk membership under
1221 paragraph (a), paragraph (b), or paragraph (c), must have
1222 suffered a qualifying injury as defined in this paragraph, must
1223 not be receiving disability retirement benefits as provided in
1224 s. 121.091(4), and must satisfy the requirements of this
1225 paragraph.

1226 1. The ability to qualify for the class of membership
1227 defined in s. 121.021(15) (f) shall occur ~~paragraph (2) (f) occurs~~
1228 when two licensed medical physicians, one of whom is a primary
1229 treating physician of the member, certify the existence of the
1230 physical injury and medical condition that constitute a
1231 qualifying injury as defined in this paragraph and that the
1232 member has reached maximum medical improvement after August 1,
1233 2008. The certifications from the licensed medical physicians
1234 must include, at a minimum, that the injury to the special risk
1235 member has resulted in a physical loss, or loss of use, of at
1236 least two of the following: left arm, right arm, left leg, or
1237 right leg; and:

1238 a. That this physical loss or loss of use is total and
1239 permanent, except in the event that the loss of use is due to a
1240 physical injury to the member's brain, in which event the loss
1241 of use is permanent with at least 75 percent loss of motor
1242 function with respect to each arm or leg affected.

1243 b. That this physical loss or loss of use renders the
1244 member physically unable to perform the essential job functions
1245 of his or her special risk position.

1246 c. That, notwithstanding this physical loss or loss of use,
1247 the individual is able to perform the essential job functions

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1248 required by the member's new position, as provided in
1249 subparagraph 3.

1250 d. That use of artificial limbs is either not possible or
1251 does not alter the member's ability to perform the essential job
1252 functions of the member's position.

1253 e. That the physical loss or loss of use is a direct result
1254 of a physical injury and not a result of any mental,
1255 psychological, or emotional injury.

1256 2. For the purposes of this paragraph, "qualifying injury"
1257 means an injury sustained in the line of duty, as certified by
1258 the member's employing agency, by a special risk member that
1259 does not result in total and permanent disability as defined in
1260 s. 121.091(4)(b). An injury is a qualifying injury when ~~if~~ the
1261 injury is a physical injury to the member's physical body
1262 resulting in a physical loss, or loss of use, of at least two of
1263 the following: left arm, right arm, left leg, or right leg.
1264 Notwithstanding anything in ~~any other provision of~~ this section
1265 to the contrary, an injury that would otherwise qualify as a
1266 qualifying injury shall ~~is~~ not be considered a qualifying injury
1267 if and when the member ceases employment with the employer for
1268 whom he or she was providing special risk services on the date
1269 the injury occurred.

1270 3. The new position, as described in sub-subparagraph 1.c.,
1271 that is required for qualification as a special risk member
1272 under this paragraph is not required to be a position with
1273 essential job functions that entitle an individual to special
1274 risk membership. Whether a new position as described in sub-
1275 subparagraph 1.c. exists and is available to the special risk
1276 member is a decision to be made solely by the employer in

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1277 accordance with its hiring practices and applicable law.

1278 4. This paragraph does not grant or create additional
1279 rights for any individual to continued employment or to be hired
1280 or rehired by his or her employer that are not already provided
1281 within the Florida Statutes, the State Constitution, the
1282 Americans with Disabilities Act, if applicable, or any other
1283 applicable state or federal law.

1284 (3)~~(4)~~ PROCEDURE FOR DESIGNATING.—

1285 (a) Any member of the Florida Retirement System employed by
1286 a county, city ~~municipality~~, or special district who feels that
1287 he or she ~~his or her position~~ meets the criteria set forth in
1288 this section for membership in the Special Risk Class may
1289 request that his or her employer submit an application to the
1290 department requesting that the department designate him or her
1291 as a Special Risk member. If the employer agrees that the member
1292 meets the requirements for Special Risk ~~Class~~ membership, the
1293 employer shall submit an application to the department on behalf
1294 of the employee containing a certification that the member meets
1295 the criteria for Special Risk ~~Class~~ membership set forth in this
1296 section and such other supporting documentation as may be
1297 required by administrative rule. The department shall, within 90
1298 days, either designate or refuse to designate the member as a
1299 special risk member. If the employer declines to submit the
1300 member's application to the department or if the department does
1301 not designate the member as a special risk member, the member or
1302 the employer may appeal to the State Retirement Commission, as
1303 provided in s. 121.23, for designation as a special risk member.
1304 A member who receives a final affirmative ruling pursuant to
1305 such appeal for Special Risk membership shall have Special Risk

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1306 ~~Class~~ membership retroactive to the date such member would have
1307 had Special Risk ~~Class~~ membership had such membership been
1308 approved by the employer and the department, as determined by
1309 the department, and the employer contributions shall be paid in
1310 full within 1 year after such final ruling.

1311 (b) 1. Applying the criteria set forth in this section, the
1312 Department of Management Services shall specify which current
1313 and newly created classes of positions under the uniform
1314 classification plan established pursuant to chapter 110 entitle
1315 the incumbents of positions in those classes to membership in
1316 the Special Risk Class. Only employees employed in the classes
1317 so specified shall be special risk members.

1318 2. When ~~if~~ a class is not specified by the department as
1319 provided in subparagraph 1., the employing agency may petition
1320 the State Retirement Commission for approval in accordance with
1321 s. 121.23.

1322 (4) ~~(5)~~ REMOVAL OF SPECIAL RISK ~~CLASS~~ MEMBERSHIP.—

1323 (a) Any member who is a special risk member on October 1,
1324 1978, and who fails to meet the criteria for Special Risk ~~Class~~
1325 membership established by this section shall have his or her
1326 special risk designation removed and thereafter shall be a
1327 regular member and shall earn only regular membership credit.
1328 The department shall have the authority to ~~may~~ review the
1329 special risk designation of members to determine whether or not
1330 those members continue to meet the criteria for Special Risk
1331 ~~Class~~ membership.

1332 (b) Any member who is a special risk member on July 1,
1333 2008, and who became eligible to participate under paragraph
1334 (2) ~~(3)~~ (h) but fails to meet the criteria for Special Risk ~~Class~~

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1335 membership established by paragraph (2)~~(3)~~(i) or paragraph
1336 (2)~~(3)~~(j) shall have his or her special risk designation removed
1337 and thereafter shall be a Regular Class member and earn only
1338 Regular Class membership credit. The department may review the
1339 special risk designation of members to determine whether or not
1340 those members continue to meet the criteria for Special Risk
1341 ~~Class~~ membership.

1342 (5)~~(6)~~ CREDIT FOR PAST SERVICE.—A special risk member may
1343 purchase retirement credit in the Special Risk Class based upon
1344 past service, and may upgrade retirement credit for such past
1345 service, to the extent of 2 percent of the member's average
1346 monthly compensation as specified in s. 121.091(1)(a) for such
1347 service as follows:

1348 (a) The member may purchase special risk credit for past
1349 service with a city ~~municipality~~ or special district which has
1350 elected to join the Florida Retirement System, or with a
1351 participating agency to which a member's governmental unit was
1352 transferred, merged, or consolidated as provided in s.
1353 121.081(1)(f), if the member was employed with the city
1354 ~~municipality~~ or special district at the time it commenced
1355 participating in the Florida Retirement System or with the
1356 governmental unit at the time of its transfer, merger, or
1357 consolidation with the participating agency. The service must
1358 satisfy the criteria set forth in subsection (2) ~~(3)~~ for Special
1359 Risk ~~Class~~ membership as a law enforcement officer, firefighter,
1360 or correctional officer; however, no ~~a~~ certificate or waiver of
1361 certificate of compliance with s. 943.1395 or s. 633.35 shall be
1362 ~~is not~~ required for such service.

1363 (b) Contributions for upgrading the additional special risk

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1364 credit pursuant to this subsection shall ~~must~~ be equal to the
1365 difference in the ~~employer and, if applicable, employee~~
1366 contributions paid and the special risk percentage rate of gross
1367 salary in effect at the time of purchase for the period being
1368 claimed, plus interest thereon at the rate of 4 percent a year
1369 compounded annually from the date of such service until July 1,
1370 1975, and 6.5 percent a year thereafter until the date of
1371 payment. This past service may be purchased by the member or by
1372 the employer on behalf of the member.

1373 (6)~~(7)~~ CREDIT FOR PRIOR SERVICE.—A special risk member who
1374 has creditable service with an employer under chapter 122 or
1375 chapter 321, or was employed as a correctional counselor with
1376 the Department of Corrections between December 1, 1970, and
1377 September 30, 1979, in a position which ~~that~~ satisfies the
1378 criteria provided for in subsection (2) ~~(3)~~ for Special Risk
1379 ~~Class~~ membership except the requirement for a certificate or
1380 waiver of certificate, shall have those years of service counted
1381 towards the attainment of the normal retirement date as a
1382 special risk member under this chapter. The percentage value of
1383 each such year of creditable service under chapter 122, chapter
1384 321, or as a correctional counselor shall ~~may~~ not change as a
1385 result of the application of this subsection. A special risk
1386 member who has taken a refund of contributions for such
1387 creditable service under chapter 122 or chapter 321 and has
1388 reclaimed it as prior service credit under this chapter shall be
1389 permitted to have such creditable service counted towards the
1390 attainment of the normal retirement date for the Special Risk
1391 Class of membership under this chapter.

1392 (7)~~(8)~~ RETENTION OF SPECIAL RISK NORMAL RETIREMENT DATE

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1393 ~~SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS.-~~

1394 (a) A special risk member who is moved or reassigned to a
1395 nonspecial risk law enforcement, firefighting, correctional, or
1396 emergency medical care administrative support position with the
1397 same agency, or who is subsequently employed in such a position
1398 with ~~within~~ any law enforcement, firefighting, correctional, or
1399 emergency medical care agency under the Florida Retirement
1400 System, shall participate in the Special Risk Administrative
1401 Support Class and shall earn credit for such service at the same
1402 percentage rate as that earned by a regular member.

1403 Notwithstanding the provisions of subsection (4) ~~(5)~~, service in
1404 such an administrative support position shall, for purposes of
1405 s. 121.091, apply ~~applies~~ toward satisfaction of the special
1406 risk normal retirement date, as defined in s. 121.021 (29) (b)
1407 provided that, if, while in such position, the member remains
1408 certified as a law enforcement officer, firefighter,
1409 correctional officer, emergency medical technician, or
1410 paramedic; remains subject to reassignment at any time to a
1411 position qualifying for special risk membership; and completes
1412 an aggregate of 6 or more ~~the~~ years of service as a designated
1413 special risk member prior to ~~before~~ retirement ~~which is equal to~~
1414 ~~or greater than the years of service required to be vested.~~

1415 (b) Upon application by a member, the provisions of this
1416 subsection shall apply, with respect to such member,
1417 retroactively to October 1, 1978, provided that if the member
1418 was removed from the Special Risk Class effective October 1,
1419 1978, due to a change in special risk criteria as a result of
1420 the enactment of chapter 78-308, Laws of Florida, or was
1421 reassigned or employed for training or career development or to

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1422 fill a critical agency need.

1423 (c) The department shall adopt such rules as are required
1424 to administer this subsection.

1425 (d) Notwithstanding any ~~other~~ provision of this subsection
1426 to the contrary, this subsection does not apply to any special
1427 risk member who qualifies for continued membership pursuant to
1428 the provisions of paragraph (2)~~(3)~~(k).

1429 (8)~~(9)~~ RESTORATION OF SPECIAL RISK CREDIT FOR SPECIFIED
1430 PERIOD OF EMPLOYMENT.—A special risk member who was removed from
1431 the Special Risk Class effective October 1978, for the sole
1432 reason that he or she did not possess the required certificate
1433 or temporary waiver of certificate, and who obtained
1434 certification and was approved for Special Risk ~~Class~~ membership
1435 on or before June 30, 1982, shall be permitted to ~~may~~ have
1436 special risk credit restored for that period upon:

1437 (a) Certification by his or her employer that all
1438 requirements for Special Risk ~~Class~~ membership except the
1439 requirement for certification or temporary waiver of
1440 certification were met; and

1441 (b) Payment of contributions equal to the difference in the
1442 contributions that were paid during the period and the
1443 contributions required for special risk members during that
1444 period, plus 6.5 percent interest thereon, compounded each June
1445 30 from date of service until date of payment.

1446
1447 This credit may be purchased by the member or by the employer on
1448 behalf of the member.

1449 (9)~~(10)~~ CREDIT FOR UPGRADED SERVICE.—

1450 (a) Any member of the Special Risk Class who has earned

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1451 creditable service ~~through September 30, 1999,~~ in another
1452 membership class of the Florida Retirement System as an
1453 emergency medical technician or paramedic, which service is
1454 within the purview of the Special Risk Class, may purchase
1455 additional retirement credit to upgrade such service to Special
1456 Risk Class service, to the extent of the percentages of the
1457 member's average final compensation provided in s.

1458 121.091(1)(a)2. Contributions for upgrading such service to
1459 Special Risk Class credit under this subsection shall ~~must~~ be
1460 equal to the difference in the contributions paid and the
1461 Special Risk Class contribution rate as a percentage of gross
1462 salary in effect for the period being claimed, plus interest
1463 thereon at the rate of 6.5 percent a year, compounded annually
1464 until the date of payment. This service credit may be purchased
1465 by the employer on behalf of the member.

1466 (b) Any member of the Special Risk Class who has earned
1467 creditable service ~~through September 30, 2001,~~ in another
1468 membership class of the Florida Retirement System whose
1469 responsibilities included fire prevention or firefighter
1470 training, which service is within the purview of the Special
1471 Risk Class, may purchase additional retirement credit to upgrade
1472 such service to Special Risk Class service, to the extent of the
1473 percentages of the member's average final compensation provided
1474 in s. 121.091(1)(a)2. Contributions for upgrading such service
1475 to Special Risk Class credit under this subsection shall ~~must~~ be
1476 equal to the difference in the contributions paid and the
1477 Special Risk Class contribution rate as a percentage of gross
1478 salary in effect for the period being claimed, plus interest
1479 thereon at the rate of 6.5 percent a year, compounded annually

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1480 until the date of payment. This service credit may be purchased
1481 by the employer on behalf of the member.

1482 (c) Any member of the Special Risk Class who has earned
1483 creditable service ~~through June 30, 2008,~~ in another membership
1484 class of the Florida Retirement System in a position with the
1485 Department of Law Enforcement or the Division of State Fire
1486 Marshal and became covered by the Special Risk Class as
1487 described in paragraph (2)~~(3)~~(i), or with a local government law
1488 enforcement agency or medical examiner's office and became
1489 covered by the Special Risk Class as described in paragraph
1490 (2)~~(3)~~(j), which service is within the purview of the Special
1491 Risk Class, and is employed in such position on or after July 1,
1492 2008, may purchase additional retirement credit to upgrade such
1493 service to Special Risk Class service, to the extent of the
1494 percentages of the member's average final compensation provided
1495 in s. 121.091(1)(a)2. The cost for such credit shall ~~must~~ be an
1496 amount representing the actuarial accrued liability for the
1497 difference in accrual value during the affected period of
1498 service. The cost shall be calculated using the discount rate
1499 and other relevant actuarial assumptions that were used to value
1500 the Florida Retirement System Defined Benefit ~~Pension~~ Plan
1501 liabilities in the most recent actuarial valuation. The division
1502 shall ensure that the transfer sum is prepared using a formula
1503 and methodology certified by an enrolled actuary. The cost must
1504 be paid immediately upon notification by the division. The local
1505 government employer may purchase the upgraded service credit on
1506 behalf of the member if the member has been employed by that
1507 employer for at least 3 years.

1508 Section 9. Paragraphs (a) and (d) of subsection (4),

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1509 paragraphs (b), (c), and (d) of subsection (7), and subsections
1510 (8) and (10) of section 121.052, Florida Statutes, are amended
1511 to read:

1512 121.052 Membership class of elected officers.—

1513 (4) PARTICIPATION BY ELECTED OFFICERS SERVING A SHORTENED
1514 TERM DUE TO APPORTIONMENT, FEDERAL INTERVENTION, ETC.—

1515 (a) Any ~~A~~ duly elected officer whose term of office was
1516 shortened by legislative or judicial apportionment pursuant to
1517 the provisions of s. 16, Art. III of the State Constitution may,
1518 after the term of office to which he or she was elected is
1519 completed, pay into the ~~Florida Retirement~~ System Trust Fund the
1520 amount of contributions that would have been made by ~~the officer~~
1521 ~~or~~ the officer's employer on his or her behalf, plus 4 percent
1522 interest compounded annually from the date he or she left office
1523 until July 1, 1975, and 6.5 percent interest compounded annually
1524 thereafter, and may receive service credit for the length of
1525 time the officer would have served if such term had not been
1526 shortened by apportionment.

1527 (d)1. Any justice or judge, or any retired justice or judge
1528 who retired before July 1, 1993, who has attained the age of 70
1529 years and who is prevented under s. 8, Art. V of the State
1530 Constitution from completing his or her term of office because
1531 of age may elect to purchase credit for all or a portion of the
1532 months he or she would have served during the remainder of the
1533 term of office but, ~~however~~, he or she may claim those months
1534 only after the date the service would have occurred. The justice
1535 or judge must pay into the ~~Florida Retirement~~ System Trust Fund
1536 the amount of contributions that would have been made by the
1537 employer on his or her behalf for the period of time being

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1538 claimed, plus 6.5 percent interest thereon compounded each June
1539 30 from the date he or she left office, in order to receive
1540 service credit in this class for the period of time being
1541 claimed. After the date the service would have occurred, and
1542 upon payment of the required contributions, the retirement
1543 benefit of a retired justice or judge will ~~shall~~ be adjusted
1544 prospectively to include this ~~the~~ additional creditable service;
1545 however, such adjustment may be made only once.

1546 2. Any justice or judge who does not seek election to a
1547 subsequent term of office because he or she would be prevented
1548 under s. 8, Art. V of the State Constitution from completing
1549 such term of office upon attaining the age of 70 years may elect
1550 to purchase service credit for service as a temporary judge as
1551 assigned by the court if the temporary assignment follows
1552 immediately ~~follows~~ the last full term of office served and the
1553 purchase is limited to the number of months of service needed to
1554 vest retirement benefits. To receive retirement credit for such
1555 temporary service beyond termination, the justice or judge must
1556 pay into the ~~Florida Retirement~~ System Trust Fund the amount of
1557 contributions that would have been made by the ~~justice or judge~~
1558 ~~and the~~ employer on his or her behalf had he or she continued in
1559 office for the period of time being claimed, plus 6.5 percent
1560 interest thereon compounded each June 30 from the date he or she
1561 left office.

1562 (7) CONTRIBUTIONS.—

1563 (b) The employer paying the salary of a member of the
1564 Elected Officers' Class shall contribute an amount as specified
1565 in this subsection or s. 121.71, as appropriate, which shall
1566 constitute the entire employer retirement contribution with

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1567 respect to such member. The employer shall also withhold one-
1568 half of the entire contribution of the member required for
1569 social security coverage. ~~Effective July 1, 2011, each member of~~
1570 ~~the Elected Officers' Class shall pay employee contributions as~~
1571 ~~specified in s. 121.71.~~

1572 ~~(c) If a member of the Elected Officers' Class ceases to~~
1573 ~~fill an office covered by this class for 3 calendar months for~~
1574 ~~any reason other than retirement and has not been employed in~~
1575 ~~any capacity with any participating employer for 3 calendar~~
1576 ~~months, the member may receive a refund of all contributions he~~
1577 ~~or she has made to the pension plan, subject to the restrictions~~
1578 ~~otherwise provided in this chapter. Partial refunds are not~~
1579 ~~permitted. The refund shall not include any interest earnings on~~
1580 ~~the contributions for a member of the pension plan. Employer~~
1581 ~~contributions made on behalf of the member are not refundable. A~~
1582 ~~member may not receive a refund of employee contributions if a~~
1583 ~~pending or an approved qualified domestic relations order is~~
1584 ~~filed against the member's retirement account. By obtaining a~~
1585 ~~refund of contributions, a member waives all rights under the~~
1586 ~~Florida Retirement System and the health insurance subsidy~~
1587 ~~provided under s. 112.363 to the service credit represented by~~
1588 ~~the refunded contributions, except the right to purchase his or~~
1589 ~~her prior service credit in accordance with s. 121.081(2).~~

1590 (c) ~~(d)~~ The following table states the required employer
1591 contribution on behalf of each member of the Elected Officers'
1592 Class in terms of a percentage of the member's gross
1593 compensation. Such contribution constitutes the entire health
1594 insurance subsidy contribution with respect to each such member.
1595 A change in the contribution rate is effective with the first

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1596 salary paid on or after the beginning date of the change. The
 1597 retiree health insurance subsidy contribution rate is as
 1598 follows:
 1599

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%
Effective July 1, 2001	1.11%

1608 Such contributions and accompanying payroll data are due and
 1609 payable no later than the 5th working day of the month
 1610 immediately following the month during which the payroll period
 1611 ended and shall be deposited by the administrator in the Retiree
 1612 Health Insurance Subsidy Trust Fund.

1613 (8) NORMAL RETIREMENT DATE; VESTING REQUIREMENT.—A member
 1614 of the Elected Officers' Class shall have the same normal
 1615 retirement date ~~and vesting requirement~~, as ~~those terms are~~
 1616 defined in s. 121.021(29) ~~and (45)~~, for a member of the regular

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1617 class of the Florida Retirement System. Any public service
1618 commissioner who was removed from the Elected State Officers'
1619 Class on July 1, 1979, after attaining at least 8 years of
1620 creditable service in that class shall be ~~is~~ considered to have
1621 reached the normal retirement date upon attaining age 62 as
1622 required in s. 121.021(29) (a).

1623 (10) ACCRUED SERVICE VALUE.—A member of the Elected
1624 Officers' Class who is a Supreme Court justice, district court
1625 of appeal judge, circuit judge, or county court judge shall
1626 receive judicial retirement credit of 3 1/3 percent of average
1627 final compensation, and all other members shall receive elected
1628 officer retirement credit ~~accrual value~~ of 3 percent of average
1629 final compensation, for each year of creditable service in such
1630 class.

1631 Section 10. Paragraph (a) of subsection (7) of section
1632 121.053, Florida Statutes, is amended to read:

1633 121.053 Participation in the Elected Officers' Class for
1634 retired members.—

1635 (7) A member who is elected or appointed to an elective
1636 office and who is participating in the Deferred Retirement
1637 Option Program is not subject to termination as defined in s.
1638 121.021, or reemployment limitations as provided in s.
1639 121.091(9), until the end of his or her current term of office
1640 or, if the officer is consecutively elected or reelected to an
1641 elective office eligible for coverage under the Florida
1642 Retirement System, until he or she no longer holds an elective
1643 office, as follows:

1644 (a) At the end of the 60-month DROP period:

1645 1. The officer's DROP account may not accrue additional

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1646 monthly benefits, but does continue to earn interest as provided
1647 in s. 121.091(13). However, an officer whose DROP participation
1648 begins on or after July 1, 2010, may not continue to earn such
1649 interest.

1650 2. Retirement contributions, ~~except for unfunded actuarial~~
1651 ~~liability and health insurance subsidy contributions required in~~
1652 ~~ss. 121.71(5) and 121.76,~~ are not required of the employer of
1653 the elected officer, and additional retirement credit may not be
1654 earned under the Florida Retirement System.

1655 Section 11. Paragraphs (b) and (j) of subsection (1),
1656 paragraphs (b), (c), and (d) of subsection (3), paragraph (b) of
1657 subsection (4), and paragraphs (c), (d), and (e) of subsection
1658 (6) of section 121.055, Florida Statutes, are amended to read:

1659 121.055 Senior Management Service Class.—There is hereby
1660 established a separate class of membership within the Florida
1661 Retirement System to be known as the "Senior Management Service
1662 Class," which shall become effective February 1, 1987.

1663 (1)

1664 (b)1. Except as provided in subparagraph 2., effective
1665 January 1, 1990, participation in the Senior Management Service
1666 Class shall be ~~is~~ compulsory for the president of each community
1667 college, the manager of each participating city ~~municipality~~ or
1668 county, and all appointed district school superintendents.
1669 Effective January 1, 1994, additional positions may be
1670 designated for inclusion in the Senior Management Service Class
1671 of the Florida Retirement System, provided that ~~if~~:

1672 a. Positions to be included in the class shall be ~~are~~
1673 designated by the local agency employer. Notice of intent to
1674 designate positions for inclusion in the class shall ~~must~~ be

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1675 published once a week for 2 consecutive weeks in a newspaper of
1676 general circulation published in the county or counties
1677 affected, as provided in chapter 50.

1678 b. Up to 10 nonelective full-time positions may be
1679 designated for each local agency employer reporting to the
1680 Department of Management Services; for local agencies with 100
1681 or more regularly established positions, additional nonelective
1682 full-time positions may be designated, not to exceed 1 percent
1683 of the regularly established positions within the agency.

1684 c. Each position added to the class must be a managerial or
1685 policymaking position filled by an employee who is not subject
1686 to continuing contract and serves at the pleasure of the local
1687 agency employer without civil service protection, and who:

1688 (I) Heads an organizational unit; or

1689 (II) Has responsibility to effect or recommend personnel,
1690 budget, expenditure, or policy decisions in his or her areas of
1691 responsibility.

1692 2. In lieu of participation in the Senior Management
1693 Service Class, members of the Senior Management Service Class,
1694 pursuant to the provisions of subparagraph 1.7, may withdraw from
1695 the Florida Retirement System altogether. The decision to
1696 withdraw from the Florida Retirement System shall be is
1697 irrevocable for as long as the employee holds such a the
1698 position. Any service creditable under the Senior Management
1699 Service Class shall be retained after the member withdraws from
1700 the Florida Retirement System; however, additional service
1701 credit in the Senior Management Service Class shall may not be
1702 earned after such withdrawal. Such members shall are not be
1703 eligible to participate in the Senior Management Service

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1704 Optional Annuity Program.

1705 3. Effective January 1, 2006, through June 30, 2006, an
1706 employee who has withdrawn from the Florida Retirement System
1707 under subparagraph 2. has one opportunity to elect to
1708 participate in either the defined benefit program ~~pension plan~~
1709 or the Public Employee Optional Retirement Program of the
1710 Florida Retirement System ~~investment plan~~.

1711 a. If the employee elects to participate in the Public
1712 Employee Optional Retirement Program ~~investment plan~~, membership
1713 shall be prospective, and the applicable provisions of s.
1714 121.4501(4) shall govern the election.

1715 b. If the employee elects to participate in the defined
1716 benefit program of the Florida Retirement System ~~pension plan~~,
1717 the employee shall, upon payment to the system trust fund of the
1718 amount calculated under sub-sub-subparagraph (I), receive
1719 service credit for prior service based upon the time during
1720 which the employee had withdrawn from the system.

1721 (I) The cost for such credit shall be an amount
1722 representing the actuarial accrued liability for the affected
1723 period of service. The cost shall be calculated using the
1724 discount rate and other relevant actuarial assumptions that were
1725 used to value the Florida Retirement System defined benefit
1726 ~~pension~~ plan liabilities in the most recent actuarial valuation.
1727 The calculation shall ~~must~~ include any service already
1728 maintained under the defined benefit ~~pension~~ plan in addition to
1729 the period of withdrawal. The actuarial accrued liability
1730 attributable to any service already maintained under the defined
1731 benefit ~~pension~~ plan shall be applied as a credit to the total
1732 cost resulting from the calculation. The division shall ~~must~~

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1733 ensure that the transfer sum is prepared using a formula and
1734 methodology certified by an actuary.

1735 (II) The employee must transfer a sum representing the net
1736 cost owed for the actuarial accrued liability in sub-sub-
1737 subparagraph (I) immediately following the time of such
1738 movement, determined assuming that attained service equals the
1739 sum of service in the defined benefit program ~~pension plan~~ and
1740 the period of withdrawal.

1741 (j) Except as may otherwise be provided, any ~~a~~ member of
1742 the Senior Management Service Class may purchase additional
1743 retirement credit in such class for creditable service within
1744 the purview of the Senior Management Service Class retroactive
1745 to February 1, 1987, and may upgrade retirement credit for such
1746 service, to the extent of 2 percent of the member's average
1747 monthly compensation as specified in paragraph (4) (d) for such
1748 service. Contributions for upgrading the additional Senior
1749 Management Service credit pursuant to this paragraph shall ~~must~~
1750 be equal to the difference in the ~~employer and, if applicable,~~
1751 ~~employee~~ contributions paid and the Senior Management Service
1752 Class contribution rate as a percentage of gross salary in
1753 effect for the period being claimed, plus interest thereon at
1754 the rate of 6.5 percent a year, compounded annually until the
1755 date of payment. This service credit may be purchased by the
1756 employer on behalf of the member.

1757 (3)

1758 (b) The employer paying the salary of a member of the
1759 Senior Management Service Class shall contribute an amount as
1760 specified in this section or s. 121.71, as appropriate, which
1761 shall constitute the entire employer retirement contribution

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1762 with respect to such member. The employer shall also withhold
1763 one-half of the entire contribution of the member required for
1764 social security coverage. ~~Effective July 1, 2011, each member~~
1765 ~~shall pay employee contributions as specified in s. 121.71.~~

1766 ~~(c) Upon termination of employment from all participating~~
1767 ~~employers for 3 calendar months for any reason other than~~
1768 ~~retirement pursuant to s. 121.021(39)(c), a member may receive a~~
1769 ~~refund of all contributions he or she has made to the pension~~
1770 ~~plan, subject to the restrictions otherwise provided in this~~
1771 ~~chapter. Partial refunds are not permitted. The refund shall not~~
1772 ~~include any interest earnings on the contributions for a member~~
1773 ~~of the pension plan. Employer contributions made on behalf of~~
1774 ~~the member are not refundable. A member may not receive a refund~~
1775 ~~of employee contributions if a pending or an approved qualified~~
1776 ~~domestic relations order is filed against the member's~~
1777 ~~retirement account. By obtaining a refund of contributions, a~~
1778 ~~member waives all rights under the Florida Retirement System and~~
1779 ~~the health insurance subsidy provided under s. 112.363 to the~~
1780 ~~service credit represented by the refunded contributions, except~~
1781 ~~the right to purchase his or her prior service credit in~~
1782 ~~accordance with s. 121.081(2).~~

1783 ~~(c)~~(d) The following table states the required employer
1784 contribution on behalf of each member of the Senior Management
1785 Service Class in terms of a percentage of the member's gross
1786 compensation. Such contribution constitutes the entire health
1787 insurance subsidy contribution with respect to each such member.
1788 A change in the contribution rate is effective with the first
1789 salary paid on or after the beginning date of the change. The
1790 retiree health insurance subsidy contribution rate is as

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1791 follows:

1792

Dates of Contribution Rate Changes	Contribution Rate
---------------------------------------	----------------------

1793

1794

October 1, 1987, through December 31, 1988	0.24%
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1795

January 1, 1989, through December 31, 1993	0.48%
--------------------------------------------	-------

1796

January 1, 1994, through December 31, 1994	0.56%
--------------------------------------------	-------

1797

January 1, 1995, through June 30, 1998	0.66%
----------------------------------------	-------

1798

July 1, 1998, through June 30, 2001	0.94%
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1799

Effective July 1, 2001	1.11%
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1800

1801 Such contributions and accompanying payroll data are due and
 1802 payable no later than the 5th working day of the month
 1803 immediately after ~~following~~ the month during which the payroll
 1804 period ended and shall be deposited by the administrator in the
 1805 Retiree Health Insurance Subsidy Trust Fund.

1806 (4)

1807 (b) Service in an eligible position prior to ~~before~~
 1808 February 1, 1987, or after January 31, 1987, shall satisfy the
 1809 requirement of attaining the normal retirement date as defined
 1810 in s. 121.021(29) for a Senior Management Service Class member,

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1811 provided if the employee is a member of the Senior Management
1812 Service Class after January 31, 1987. A member of this class who
1813 fails to complete 6 the years of creditable service ~~required for~~
1814 ~~vesting~~ in an eligible position shall be required to ~~must~~
1815 satisfy the requirements for the normal retirement date for a
1816 regular member as provided in s. 121.021(29) ~~and vesting as~~
1817 ~~provided in s. 121.021(45).~~

1818 (6)

1819 (c) *Participation.*—

1820 1. An eligible employee who is employed on or before
1821 February 1, 1987, may elect to participate in the optional
1822 annuity program in lieu of participation ~~participating~~ in the
1823 Senior Management Service Class. Such election must be made in
1824 writing and filed with the department and the personnel officer
1825 of the employer on or before May 1, 1987. An eligible employee
1826 who is employed on or before February 1, 1987, and who fails to
1827 make an election to participate in the optional annuity program
1828 by May 1, 1987, shall be deemed to have elected membership in
1829 the Senior Management Service Class.

1830 2. Except as provided in subparagraph 6., an employee who
1831 becomes eligible to participate in the optional annuity program
1832 by reason of initial employment commencing after February 1,
1833 1987, may, within 90 days after the date of commencing
1834 employment, elect to participate in the optional annuity
1835 program. Such election must be made in writing and filed with
1836 the personnel officer of the employer. An eligible employee who
1837 does not within 90 days after commencing employment elect to
1838 participate in the optional annuity program shall be deemed to
1839 have elected membership in the Senior Management Service Class.

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1840 3. A person who is appointed to a position in the Senior
1841 Management Service Class and who is a member of an existing
1842 retirement system or the Special Risk or Special Risk
1843 Administrative Support Classes of the Florida Retirement System
1844 may elect to remain in such system or class in lieu of
1845 participation ~~participating~~ in the Senior Management Service
1846 Class or optional annuity program. Such election must be made in
1847 writing and filed with the department and the personnel officer
1848 of the employer within 90 days of ~~after~~ such appointment. Any ~~An~~
1849 eligible employee who fails to make an election to participate
1850 in the existing system, the Special Risk Class of the Florida
1851 Retirement System, the Special Risk Administrative Support Class
1852 of the Florida Retirement System, or the optional annuity
1853 program shall be deemed to have elected membership in the Senior
1854 Management Service Class.

1855 4. Except as provided in subparagraph 5., an employee's
1856 election to participate in the optional annuity program is
1857 irrevocable if the employee continues to be employed in an
1858 eligible position and continues to meet the eligibility
1859 requirements set forth in this paragraph.

1860 5. Effective from July 1, 2002, through September 30, 2002,
1861 any ~~an~~ active employee in a regularly established position who
1862 has elected to participate in the Senior Management Service
1863 Optional Annuity Program has one opportunity to choose to move
1864 from the Senior Management Service Optional Annuity Program to
1865 the Florida Retirement System defined benefit program ~~System~~
1866 Pension Plan.

1867 a. The election must be made in writing and must be filed
1868 with the department and the personnel officer of the employer

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1869 before October 1, 2002, or, in the case of an active employee
1870 who is on a leave of absence on July 1, 2002, within 90 days
1871 after the conclusion of the leave of absence. This election is
1872 irrevocable.

1873 b. The employee shall receive service credit under the
1874 defined benefit program of the Florida Retirement System ~~pension~~
1875 ~~plan~~ equal to his or her years of service under the Senior
1876 Management Service Optional Annuity Program. The cost for such
1877 credit is the amount representing the present value of that
1878 employee's accumulated benefit obligation for the affected
1879 period of service.

1880 c. The employee must transfer the total accumulated
1881 employer contributions and earnings on deposit in his or her
1882 Senior Management Service Optional Annuity Program account. If
1883 the transferred amount is not sufficient to pay the amount due,
1884 the employee must pay a sum representing the remainder of the
1885 amount due. The employee may not retain any employer
1886 contributions or earnings thereon from the Senior Management
1887 Service Optional Annuity Program account.

1888 6. A retiree of a state-administered retirement system who
1889 is initially reemployed on or after July 1, 2010, may not renew
1890 membership in the Senior Management Service Optional Annuity
1891 Program.

1892 (d) *Contributions.*—

1893 1. ~~a.~~ Through June 30, 2001, each employer shall contribute
1894 on behalf of each participant in ~~member of~~ the Senior Management
1895 Service Optional Annuity Program an amount equal to the normal
1896 cost portion of the employer retirement contribution which would
1897 be required if the participant ~~member~~ were a Senior Management

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1898 Service Class member of the Florida Retirement System Defined
1899 Benefit Program Pension Plan, plus the portion of the
1900 contribution rate required in s. 112.363(8) that would otherwise
1901 be assigned to the Retiree Health Insurance Subsidy Trust Fund.

1902 ~~b. Effective July 1, 2001, through June 30, 2011, each~~
1903 employer shall contribute on behalf of each participant in
1904 ~~member of~~ the optional program an amount equal to 12.49 percent
1905 of the participant's employee's gross monthly compensation.

1906 ~~e. Effective July 1, 2011, each member of the optional~~
1907 ~~annuity program shall contribute an amount equal to the employee~~
1908 ~~contribution required under s. 121.71(3). The employer shall~~
1909 ~~contribute on behalf of such employee an amount equal to the~~
1910 ~~difference between 12.49 percent of the employee's gross monthly~~
1911 ~~compensation and the amount equal to the employee's required~~
1912 ~~contribution based on the employee's gross monthly compensation.~~

1913 ~~d. The department shall deduct an amount approved by the~~
1914 ~~Legislature to provide for the administration of this program.~~
1915 The payment of the contributions to the optional program which
1916 is required by this subparagraph for each participant, including
1917 ~~contributions made by the employee,~~ shall be made by the
1918 employer to the department, which shall forward the
1919 contributions to the designated company or companies contracting
1920 for payment of benefits for the participant member under the
1921 program.

1922 2. Each employer shall contribute on behalf of each
1923 participant in member of the Senior Management Service Optional
1924 Annuity Program an amount equal to the unfunded actuarial
1925 accrued liability portion of the employer contribution which
1926 would be required for members of the Senior Management Service

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1927 Class in the Florida Retirement System. This contribution shall
 1928 be paid to the department for transfer to the Florida Retirement
 1929 System Trust Fund.

1930 3. An Optional Annuity Program Trust Fund shall be
 1931 established in the State Treasury and administered by the
 1932 department to make payments to provider companies on behalf of
 1933 the optional annuity program participants ~~members~~, and to
 1934 transfer the unfunded liability portion of the state optional
 1935 annuity program contributions to the Florida Retirement System
 1936 Trust Fund.

1937 4. Contributions required for social security by each
 1938 employer and each participant ~~employee~~, in the amount required
 1939 for social security coverage as now or hereafter may be provided
 1940 by the federal Social Security Act shall be maintained for each
 1941 participant in ~~member of~~ the Senior Management Service
 1942 retirement program and shall be ~~are~~ in addition to the
 1943 retirement contributions specified in this paragraph.

1944 5. Each participant in ~~member of~~ the Senior Management
 1945 Service Optional Annuity Program may contribute by way of salary
 1946 reduction or deduction a percentage amount of the participant's
 1947 ~~employee's~~ gross compensation not to exceed the percentage
 1948 amount contributed by the employer to the optional annuity
 1949 program. Payment of the participant's ~~employee's~~ contributions
 1950 shall be made by the employer to the department, which shall
 1951 forward the contributions to the designated company or companies
 1952 contracting for payment of benefits for the participant ~~member~~
 1953 under the program.

1954 (e) *Benefits.*—

1955 1. Benefits under the Senior Management Service Optional

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1956 Annuity Program are payable only to participants in ~~members of~~
1957 the program, or their beneficiaries as designated by the
1958 participant member in the contract with the provider company,
1959 and must be paid by the designated company in accordance with
1960 the terms of the annuity contract applicable to the participant
1961 ~~member~~. A participant member must be terminated from all
1962 employment relationships with Florida Retirement System
1963 employers as provided in s. 121.021(39) ~~for 3 calendar months~~ to
1964 begin receiving the employer-funded ~~and employee-funded~~ benefit.
1965 ~~The member must meet the definition of termination in s.~~
1966 ~~121.021(39) beginning the month after receiving a benefit,~~
1967 ~~including a distribution.~~ Benefits funded by employer and
1968 ~~employee~~ contributions are payable under the terms of the
1969 contract to the participant member, his or her beneficiary, or
1970 his or her estate, in addition to:

1971 a. A lump-sum payment to the beneficiary upon the death of
1972 the participant member;

1973 b. A cash-out of a de minimis account upon the request of a
1974 former participant member who has been terminated for a minimum
1975 of 6 calendar months from the employment that entitled him or
1976 her to optional annuity program participation. Such cash-out
1977 must be a complete liquidation of the account balance with that
1978 company and is subject to the Internal Revenue Code;

1979 c. A mandatory distribution of a de minimis account of a
1980 former participant member who has been terminated for a minimum
1981 of 6 calendar months from the employment that entitled him or
1982 her to optional annuity program participation as authorized by
1983 the department; or

1984 d. A lump-sum direct rollover distribution whereby all

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1985 accrued benefits, plus interest and investment earnings, are
1986 paid from the participant's ~~member's~~ account directly to the
1987 custodian of an eligible retirement plan, as defined in s.
1988 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
1989 participant ~~member~~.

1990 ~~2. Under the Senior Management Service Optional Annuity~~
1991 ~~Program, benefits, including employee contributions, are not~~
1992 ~~payable for employee hardships, unforeseeable emergencies,~~
1993 ~~loans, medical expenses, educational expenses, purchase of a~~
1994 ~~principal residence, payments necessary to prevent eviction or~~
1995 ~~foreclosure on an employee's principal residence, or any other~~
1996 ~~reason before termination from all employment relationships with~~
1997 ~~participating employers for 3 calendar months.~~

1998 ~~2.3.~~ The benefits payable to any person under the Senior
1999 Management Service Optional Annuity Program, and any
2000 contribution accumulated under such program, are not subject to
2001 assignment, execution, or attachment or to any legal process
2002 whatsoever.

2003 ~~3.4.~~ Except as provided in subparagraph ~~4.5.~~, a participant
2004 ~~member~~ who terminates employment and receives a distribution,
2005 including a rollover or trustee-to-trustee transfer, funded by
2006 employer and ~~required employee~~ contributions shall be ~~is~~ deemed
2007 to be retired from a state-administered retirement system if the
2008 participant ~~member~~ is subsequently employed with an employer
2009 that participates in the Florida Retirement System.

2010 ~~4.5.~~ A participant ~~member~~ who receives optional annuity
2011 program benefits funded by employer and ~~employee~~ contributions
2012 as a mandatory distribution of a de minimis account authorized
2013 by the department is not considered a retiree.

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2015 As used in this paragraph, a "de minimis account" means an
 2016 account with a provider company containing employer ~~and employee~~
 2017 contributions and accumulated earnings of not more than \$5,000
 2018 made under this chapter.

2019 Section 12. Subsection (2) of section 121.061, Florida
 2020 Statutes, is amended to read:

2021 121.061 Funding.—

2022 (2) (a) Should any employer other than a state employer fail
 2023 to make the retirement and social security contributions, both
 2024 member and employer contributions, required by this chapter,
 2025 then, upon request by the administrator, the Department of
 2026 Revenue or the Department of Financial Services, as the case may
 2027 be, shall deduct the amount owed by the employer from any funds
 2028 to be distributed by it to the county, city ~~municipality~~,
 2029 metropolitan planning organization, special district, or
 2030 consolidated form of government. The amounts so deducted shall
 2031 be transferred to the administrator for further distribution to
 2032 the trust funds in accordance with this chapter.

2033 (b) Should any employer for whom the city ~~municipality~~ or
 2034 county tax collector collects taxes, fail to make the retirement
 2035 and social security contributions required by this chapter, the
 2036 tax collector, at the request of the administrator and upon
 2037 receipt of a certificate from the administrator showing the
 2038 amount owed by the employer, shall deduct the amount so
 2039 certified from any taxes collected for the employer and remit
 2040 the amount to the administrator for further distribution to the
 2041 trust funds in accordance with this chapter.

2042 (c) The governing body of each county, city ~~municipality~~,

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2043 metropolitan planning organization, special district, or
2044 consolidated form of government participating under this chapter
2045 or the administrator, acting individually or jointly, is hereby
2046 authorized to file and maintain an action in the courts of the
2047 state to require any employer to remit any retirement or social
2048 security member contributions or employer matching payments due
2049 the retirement or social security trust funds under the
2050 provisions of this chapter.

2051 (d) Should the income of any constitutional fee officer, in
2052 any year, be insufficient to make the matching payments required
2053 by this chapter, the board of county commissioners shall provide
2054 such fee officer sufficient funds to make these required
2055 payments when due.

2056 Section 13. Subsections (2) and (5), paragraphs (c) and (d)
2057 of subsection (6), and subsection (7) of section 121.071,
2058 Florida Statutes, are amended to read:

2059 121.071 Contributions.—Contributions to the system shall be
2060 made as follows:

2061 (2) (a) Effective January 1, 1975, or October 1, 1975, as
2062 applicable, ~~and through June 30, 2011,~~ each employer shall
2063 accomplish ~~make~~ the contribution required by subsection (1) by a
2064 procedure in which no employee's gross salary shall be ~~is~~
2065 reduced. ~~Effective July 1, 2011, each employer and employee~~
2066 ~~shall pay retirement contributions as specified in s. 121.71.~~

2067 (b) Upon termination of employment ~~from all participating~~
2068 ~~employers~~ for ~~3 calendar months~~ for any reason other than
2069 retirement ~~pursuant to s. 121.021(39)(c),~~ a member shall be
2070 entitled to ~~may receive~~ a full refund of the all contributions
2071 he or she has made prior or subsequent to participation in the

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2072 noncontributory ~~to the pension plan,~~ subject to the restrictions
2073 otherwise provided in this chapter. ~~Partial refunds are not~~
2074 ~~permitted. The refund may not include any interest earnings on~~
2075 ~~the contributions for a member of the pension plan. Employer~~
2076 ~~contributions made on behalf of the member are not refundable. A~~
2077 ~~member may not receive a refund of employee contributions if a~~
2078 ~~pending or an approved qualified domestic relations order is~~
2079 ~~filed against his or her retirement account. By obtaining a~~
2080 ~~refund of contributions, a member waives all rights under the~~
2081 ~~Florida Retirement System and the health insurance subsidy to~~
2082 ~~the service credit represented by the refunded contributions,~~
2083 ~~except the right to purchase his or her prior service credit in~~
2084 ~~accordance with s. 121.081(2).~~

2085 (5) Contributions made in accordance with subsections (1),
2086 (2), (3), and (4), and s. 121.71 shall be paid by the employer
2087 into the system trust funds in accordance with rules adopted by
2088 the administrator pursuant to chapter 120, except as may be
2089 otherwise specified herein. Effective July 1, 2002,
2090 contributions paid under subsections (1) and (4) and
2091 accompanying payroll data are due and payable no later than the
2092 5th working day of the month immediately after ~~following~~ the
2093 month during which the payroll period ended.

2094 (6)

2095 (c) By obtaining a refund of contributions, a member waives
2096 all rights under the Florida Retirement System ~~and the health~~
2097 ~~insurance subsidy as provided in s. 112.363~~ to the service
2098 credit represented by the refunded contributions, except the
2099 right to purchase his or her prior service credit in accordance
2100 with s. 121.081(2).

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2101 ~~(d) If a member or former member of the pension plan~~
2102 ~~receives an invalid refund from the Florida Retirement System~~
2103 ~~Trust Fund, such person must repay the full amount of the~~
2104 ~~invalid refund, plus interest at 6.5 percent compounded annually~~
2105 ~~on each June 30 from the date of refund until full payment is~~
2106 ~~made to the trust fund. The invalid refund must be repaid before~~
2107 ~~the member retires or, if applicable, transfers to the~~
2108 ~~investment plan.~~

2109 ~~(7) Before termination of employment, benefits, including~~
2110 ~~employee contributions, are not payable under the pension plan~~
2111 ~~for employee hardships, unforeseeable emergencies, loans,~~
2112 ~~medical expenses, educational expenses, purchase of a principal~~
2113 ~~residence, payments necessary to prevent eviction or foreclosure~~
2114 ~~on an employee's principal residence, or any other reason before~~
2115 ~~termination from all employment relationships with participating~~
2116 ~~employers.~~

2117 Section 14. Paragraphs (b) and (c) of subsection (1) and
2118 subsection (2) of section 121.081, Florida Statutes, are amended
2119 to read:

2120 121.081 Past service; prior service; contributions.—
2121 Conditions under which past service or prior service may be
2122 claimed and credited are:

2123 (1)

2124 (b) Past service earned after January 1, 1975, may be
2125 claimed by officers or employees of a municipality, metropolitan
2126 planning organization, charter school, charter technical career
2127 center, or special district who become a covered group under
2128 this system. The governing body of a covered group may elect to
2129 provide benefits for past service earned after January 1, 1975,

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2130 in accordance with this chapter, ~~and~~ the cost for such past
2131 service is established by applying the following formula: The
2132 employer shall contribute an amount equal to the ~~employer~~
2133 contribution rate in effect at the time the service was earned
2134 ~~and, if applicable, the employee contribution rate,~~ multiplied
2135 by the employee's gross salary for each year of past service
2136 claimed, plus 6.5-percent ~~6.5 percent~~ interest thereon,
2137 compounded annually, figured on ~~for~~ each year of past service,
2138 with interest compounded from date of annual salary earned until
2139 date of payment.

2140 (c) Should the employer ~~If an employer joins the Florida~~
2141 ~~Retirement System and does not elect to provide past service for~~
2142 ~~the member at the time of joining, then~~ the member may claim and
2143 pay same, based on ~~for the service as provided in~~ paragraphs (a)
2144 and (b).

2145 (2) Prior service, as defined in s. 121.021(19), may be
2146 claimed as creditable service under the Florida Retirement
2147 System after a member has been reemployed for 1 complete year of
2148 creditable service within a period of 12 consecutive months,
2149 except as provided in paragraph (c). Service performed as a
2150 participant member of the optional retirement program for the
2151 State University System under s. 121.35 or the Senior Management
2152 Service Optional Annuity Program under s. 121.055 may be used to
2153 satisfy the reemployment requirement of 1 complete year of
2154 creditable service. The member shall not be permitted to make
2155 any contributions for prior service until after completion of
2156 the 1 year of creditable service. If a member does not wish to
2157 claim credit for all of his or her prior service, the service
2158 the member claims must be the most recent period of service. The

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2159 required contributions for claiming the various types of prior
2160 service are:

2161 (a) For prior service performed prior to ~~before~~ the date
2162 the system becomes noncontributory for the member and for which
2163 the member had credit under one of the existing retirement
2164 systems and received a refund of contributions upon termination
2165 of employment, the member shall contribute 4 percent of all
2166 salary received during the period being claimed, plus 4-percent
2167 ~~4-percent~~ interest compounded annually from date of refund until
2168 July 1, 1975, and 6.5-percent ~~6.5-percent~~ interest compounded
2169 annually thereafter, until full payment is made to the ~~Florida~~
2170 Retirement ~~System~~ Trust Fund, and shall receive credit in the
2171 Regular Class. A member who elected to transfer to the Florida
2172 Retirement System from an existing system may receive credit for
2173 prior service under the existing system if he or she was
2174 eligible under the existing system to claim the prior service at
2175 the time of the transfer. Contributions for such prior service
2176 shall be determined by the applicable provisions of the system
2177 under which the prior service is claimed and shall be paid by
2178 the member, with matching contributions paid by the employer at
2179 the time the service was performed. Effective July 1, 1978, the
2180 account of a person who terminated under s. 238.05(3) may not be
2181 charged interest for contributions that remained on deposit in
2182 the Annuity Savings Trust Fund established under chapter 238,
2183 upon retirement under this chapter or chapter 238.

2184 (b) For prior service performed prior to ~~before~~ the date
2185 the system becomes noncontributory for the member and for which
2186 the member had credit under the Florida Retirement System and
2187 received a refund of contributions upon termination of

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2188 employment, the member shall contribute at the rate that was
2189 required of him or her during the period of service being
2190 claimed, on all salary received during such period, plus 4-
2191 percent ~~4-percent~~ interest compounded annually from date of
2192 refund until July 1, 1975, and 6.5-percent ~~6.5-percent~~ interest
2193 compounded annually thereafter, until the full payment is made
2194 to the ~~Florida Retirement System~~ Trust Fund, and shall receive
2195 credit in the membership class in which the member participated
2196 during the period claimed.

2197 (c) For prior service as defined in s. 121.021(19) (b) and
2198 (c) during which no contributions were made because the member
2199 did not participate in a retirement system, the member shall
2200 contribute 14.38 percent of all salary received during such
2201 period or 14.38 percent of \$100 per month during such period,
2202 whichever is greater, plus 4-percent ~~4-percent~~ interest
2203 compounded annually from the first year of service claimed until
2204 July 1, 1975, and 6.5-percent ~~6.5-percent~~ interest compounded
2205 annually thereafter, until full payment is made to the
2206 Retirement Trust Fund, and shall receive credit in the Regular
2207 Class.

2208 (d) In order to claim credit for prior service as defined
2209 in s. 121.021(19) (d) for which no retirement contributions were
2210 paid during the period of such service, the member shall
2211 contribute the total employee and employer contributions which
2212 were required to be made to the Highway Patrol Pension Trust
2213 Fund, as provided in chapter 321, during the period claimed,
2214 plus 4-percent ~~4-percent~~ interest compounded annually from the
2215 first year of service until July 1, 1975, and 6.5-percent ~~6.5-~~
2216 ~~percent~~ interest compounded annually thereafter, until full

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2217 payment is made to the Retirement Trust Fund. However, any
2218 governmental entity which ~~that~~ employed such member may elect to
2219 pay up to 50 percent of the contributions and interest required
2220 to purchase this ~~the~~ prior service credit. The service shall be
2221 credited in accordance with the provisions of the Highway Patrol
2222 Pension Plan in effect during the period claimed unless the
2223 member terminated and withdrew his or her retirement
2224 contributions and was thereafter enrolled in the State and
2225 County Officers and Employees' Retirement System or the Florida
2226 Retirement System, in which case the service shall be credited
2227 as Regular Class service.

2228 (e) For service performed under the Florida Retirement
2229 System after December 1, 1970, that ~~which~~ was never reported to
2230 the division or the department due to error, retirement credit
2231 may be claimed by a member of the Florida Retirement System. The
2232 department shall adopt rules establishing criteria for claiming
2233 such credit and detailing the documentation required to
2234 substantiate the error.

2235 ~~(f) For prior service performed on or after July 1, 2011,~~
2236 ~~for which the member had credit under the Florida Retirement~~
2237 ~~System and received a refund of contributions 3 calendar months~~
2238 ~~after termination of employment, the member shall contribute at~~
2239 ~~the rate that was required during the period of service being~~
2240 ~~claimed, plus 6.5 percent interest, compounded annually on each~~
2241 ~~June 30 from date of refund until the full payment is made to~~
2242 ~~the Florida Retirement System Trust Fund, and receive credit in~~
2243 ~~the membership class in which the member participated during the~~
2244 ~~period claimed.~~

2245 (f) ~~(g)~~ The employer may not be required to make

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2246 contributions for prior service credit for any member, except
2247 that the employer shall pay the employer portion of
2248 contributions for any legislator who elects to withdraw from the
2249 Florida Retirement System and later rejoins the system and pays
2250 any employee contributions required in accordance with s.
2251 121.052(3)(d).

2252 Section 15. Paragraphs (a) and (b) of subsection (3),
2253 paragraphs (a) and (j) of subsection (4), paragraphs (a) and (c)
2254 of subsection (5), paragraph (d) of subsection (9), paragraphs
2255 (a) and (c) of subsection (13), and paragraph (d) of subsection
2256 (14) of section 121.091, Florida Statutes, are amended to read:

2257 121.091 Benefits payable under the system.—Benefits may not
2258 be paid under this section unless the member has terminated
2259 employment as provided in s. 121.021(39)(a) or begun
2260 participation in the Deferred Retirement Option Program as
2261 provided in subsection (13), and a proper application has been
2262 filed in the manner prescribed by the department. The department
2263 may cancel an application for retirement benefits when the
2264 member or beneficiary fails to timely provide the information
2265 and documents required by this chapter and the department's
2266 rules. The department shall adopt rules establishing procedures
2267 for application for retirement benefits and for the cancellation
2268 of such application when the required information or documents
2269 are not received.

2270 (3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or her
2271 early retirement date, the member shall receive an immediate
2272 monthly benefit that shall begin to accrue on the first day of
2273 the month of the retirement date and be payable on the last day
2274 of that month and each month thereafter during his or her

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2275 lifetime. Such benefit shall be calculated as follows:

2276 (a) ~~For a member initially enrolled:~~

2277 ~~1. Before July 1, 2011,~~ The amount of each monthly payment
2278 shall be computed in the same manner as for a normal retirement
2279 benefit, in accordance with subsection (1), but shall be based
2280 on the member's average monthly compensation and creditable
2281 service as of the member's early retirement date. The benefit so
2282 computed shall be reduced by five-twelfths of 1 percent for each
2283 complete month by which the early retirement date precedes the
2284 normal retirement date of age 62 for a member of the Regular
2285 Class, Senior Management Service Class, or the Elected Officers'
2286 Class, and age 55 for a member of the Special Risk Class, or age
2287 52 if a Special Risk member has completed 25 years of creditable
2288 service in accordance with s. 121.021(29)(b)3.

2289 ~~121.021(29)(b)1.c.~~

2290 ~~2. On or after July 1, 2011, the amount of each monthly~~
2291 ~~payment shall be computed in the same manner as for a normal~~
2292 ~~retirement benefit, in accordance with subsection (1), but shall~~
2293 ~~be based on the member's average monthly compensation and~~
2294 ~~creditable service as of the member's early retirement date. The~~
2295 ~~benefit so computed shall be reduced by five-twelfths of 1~~
2296 ~~percent for each complete month by which the early retirement~~
2297 ~~date precedes the normal retirement date of age 65 for a member~~
2298 ~~of the Regular Class, Senior Management Service Class, or the~~
2299 ~~Elected Officers' Class, and age 60 for a member of the Special~~
2300 ~~Risk Class, or age 57 if a special risk member has completed 30~~
2301 ~~years of creditable service in accordance with s.~~

2302 ~~121.021(29)(b)2.c.~~

2303 (b) If the employment of a member is terminated by reason

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2304 of death subsequent to the completion of 20 years of creditable
2305 service within 10 years before normal retirement as described in
2306 s. 121.021(29)(a)1.b. or s. 121.021(29)(a)2.b., the monthly
2307 benefit payable to the member's beneficiary shall be calculated
2308 in accordance with subsection (1), but shall ~~must~~ be based on
2309 average monthly compensation and creditable service as of the
2310 date of death. The benefit so computed shall be reduced by five-
2311 twelfths of 1 percent for each complete month by which death
2312 precedes the normal retirement date specified above or the date
2313 on which the member would have attained 30 years of creditable
2314 service ~~the normal retirement date~~ had he or she survived and
2315 continued his or her employment, whichever provides a higher
2316 benefit.

2317 (4) DISABILITY RETIREMENT BENEFIT.—

2318 (a) *Disability retirement; entitlement and effective date.*—

2319 1.a. A member who becomes totally and permanently disabled,
2320 as defined in paragraph (b), after completing 5 years of
2321 creditable service, or a member who becomes totally and
2322 permanently disabled in the line of duty regardless of service,
2323 shall be is entitled to a monthly disability benefit; except
2324 that any member with less than 5 years of creditable service on
2325 July 1, 1980, or any person who becomes a member of the Florida
2326 Retirement System on or after such date must have completed 10
2327 years of creditable service prior to ~~before~~ becoming totally and
2328 permanently disabled in order to receive disability retirement
2329 benefits for any disability which occurs other than in the line
2330 of duty. However, if a member employed on July 1, 1980, with ~~who~~
2331 ~~has~~ less than 5 years of creditable service as of that date,
2332 becomes totally and permanently disabled after completing 5

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2333 years of creditable service and is found not to have attained
2334 fully insured status for benefits under the federal Social
2335 Security Act, such member shall be ~~is~~ entitled to a monthly
2336 disability benefit.

2337 b. Effective July 1, 2001, a member of the defined benefit
2338 retirement program ~~pension plan~~ who becomes totally and
2339 permanently disabled, as defined in paragraph (b), after
2340 completing 8 years of creditable service, or a member who
2341 becomes totally and permanently disabled in the line of duty
2342 regardless of service, shall be ~~is~~ entitled to a monthly
2343 disability benefit.

2344 2. If the division has received from the employer the
2345 required documentation of the member's termination of
2346 employment, the effective retirement date for a member who
2347 applies and is approved for disability retirement shall be
2348 established by rule of the division.

2349 3. For a member who is receiving Workers' Compensation
2350 payments, the effective disability retirement date may not
2351 precede the date the member reaches Maximum Medical Improvement
2352 (MMI), unless the member terminates employment prior to ~~before~~
2353 reaching MMI.

2354 (j) *Disability retirement of justice or judge by order of*
2355 *Supreme Court.*—

2356 1. If a member is a justice of the Supreme Court, judge of
2357 a district court of appeal, circuit judge, or judge of a county
2358 court who has served for 6 years or more ~~the number of years~~
2359 ~~equal to, or greater than, the vesting requirement in s.~~
2360 ~~121.021(45)~~ as an elected constitutional judicial officer,
2361 including service as a judicial officer, in any court abolished

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2362 pursuant to Art. V of the State Constitution, and who is retired
2363 for disability by order of the Supreme Court upon recommendation
2364 of the Judicial Qualifications Commission pursuant to the
2365 provisions of Art. V of the State Constitution, the member's
2366 Option 1 monthly benefit as provided in subparagraph (6)(a)1.
2367 shall ~~may~~ not be less than two-thirds of his or her monthly
2368 compensation as of the member's disability retirement date. Such
2369 a member may alternatively elect to receive a disability
2370 retirement benefit under any other option as provided in
2371 paragraph (6)(a).

2372 2. Should any justice or judge who is a member of the
2373 Florida Retirement System be retired for disability by order of
2374 the Supreme Court upon recommendation of the Judicial
2375 Qualifications Commission pursuant to the provisions of Art. V
2376 of the State Constitution, then all contributions to his or her
2377 account and all contributions made on his or her behalf by the
2378 employer shall be transferred to and deposited in the General
2379 Revenue Fund of the state, and there is hereby appropriated
2380 annually out of the General Revenue Fund, to be paid into the
2381 Florida Retirement System Fund, an amount necessary to pay the
2382 benefits of all justices and judges retired from the Florida
2383 Retirement System pursuant to Art. V of the State Constitution.

2384 (5) TERMINATION BENEFITS.—A member whose employment is
2385 terminated prior to retirement retains membership rights to
2386 previously earned member-noncontributory service credit, and to
2387 member-contributory service credit, if the member leaves the
2388 member contributions on deposit in his or her retirement
2389 account. If a terminated member receives a refund of member
2390 contributions, such member may reinstate membership rights to

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2391 the previously earned service credit represented by the refund
2392 by completing 1 year of creditable service and repaying the
2393 refunded member contributions, plus interest.

2394 (a) A member whose employment is terminated for any reason
2395 other than death or retirement prior to ~~before~~ becoming vested
2396 is entitled to the return of his or her accumulated
2397 contributions as of the date of termination. ~~Effective July 1,~~
2398 ~~2011, upon termination of employment from all participating~~
2399 ~~employers for 3 calendar months as defined in s. 121.021(39)(c)~~
2400 ~~for any reason other than retirement, a member may receive a~~
2401 ~~refund of all contributions he or she has made to the pension~~
2402 ~~plan, subject to the restrictions otherwise provided in this~~
2403 ~~chapter. The refund may be received as a lump-sum payment, a~~
2404 ~~rollover to a qualified plan, or a combination of these methods.~~
2405 ~~Partial refunds are not permitted. The refund may not include~~
2406 ~~any interest earnings on the contributions for a member of the~~
2407 ~~pension plan. Employer contributions made on behalf of the~~
2408 ~~member are not refundable. A member may not receive a refund of~~
2409 ~~employee contributions if a pending or an approved qualified~~
2410 ~~domestic relations order is filed against his or her retirement~~
2411 ~~account. By obtaining a refund of contributions, a member waives~~
2412 ~~all rights under the Florida Retirement System and the health~~
2413 ~~insurance subsidy to the service credit represented by the~~
2414 ~~refunded contributions, except the right to purchase his or her~~
2415 ~~prior service credit in accordance with s. 121.081(2).~~

2416 (c) In lieu of the deferred monthly benefit provided in
2417 paragraph (b), the terminated member may elect to receive a
2418 lump-sum amount equal to his or her accumulated contributions as
2419 of the date of termination. ~~Effective July 1, 2011, upon~~

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2420 ~~termination of employment from all participating employers for 3~~
2421 ~~calendar months as defined in s. 121.021(39)(c) for any reason~~
2422 ~~other than retirement, a member may receive a refund of all~~
2423 ~~contributions he or she has made to the pension plan, subject to~~
2424 ~~the restrictions otherwise provided in this chapter. Partial~~
2425 ~~refunds are not permitted. The refund may not include any~~
2426 ~~interest earnings on the contributions for a member of the~~
2427 ~~pension plan. Employer contributions made on behalf of the~~
2428 ~~member are not refundable. A member may not receive a refund of~~
2429 ~~employee contributions if a pending or an approved qualified~~
2430 ~~domestic relations order is filed against his or her retirement~~
2431 ~~account. By obtaining a refund of contributions, a member waives~~
2432 ~~all rights under the Florida Retirement System and the health~~
2433 ~~insurance subsidy to the service credit represented by the~~
2434 ~~refunded contributions, except the right to purchase his or her~~
2435 ~~prior service credit in accordance with s. 121.081(2).~~

2436 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

2437 (d) The provisions of this subsection apply ~~applies~~ to
2438 retirees, as defined in s. 121.4501(2), of the Public Employee
2439 Optional Retirement Program Florida Retirement System Investment
2440 Plan, subject to the following conditions:

2441 1. A retiree may not be reemployed with an employer
2442 participating in the Florida Retirement System until such person
2443 has been retired for 6 calendar months.

2444 2. A retiree employed in violation of this subsection and
2445 an employer that employs or appoints such person are jointly and
2446 severally liable for reimbursement of any benefits paid to the
2447 retirement trust fund from which the benefits were paid,
2448 including the Retirement System Trust Fund and the Public

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2449 Employee Optional Retirement Program Trust Fund, as appropriate.

2450 The employer must have a written statement from the retiree that
2451 he or she is not retired from a state-administered retirement
2452 system.

2453 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and
2454 subject to this section, the Deferred Retirement Option Program,
2455 hereinafter referred to as DROP, is a program under which an
2456 eligible member of the Florida Retirement System may elect to
2457 participate, deferring receipt of retirement benefits while
2458 continuing employment with his or her Florida Retirement System
2459 employer. The deferred monthly benefits shall accrue in the
2460 Florida Retirement System on behalf of the participant member,
2461 plus interest compounded monthly, for the specified period of
2462 the DROP participation, as provided in paragraph (c). Upon
2463 termination of employment, the participant member shall receive
2464 the total DROP benefits and begin to receive the previously
2465 determined normal retirement benefits. Participation in the DROP
2466 does not guarantee employment for the specified period of DROP.
2467 Participation in DROP by an eligible member beyond the initial
2468 60-month period as authorized in this subsection shall be on an
2469 annual contractual basis for all participants.

2470 (a) *Eligibility of member to participate in DROP.*—All
2471 active Florida Retirement System members in a regularly
2472 established position, and all active members of the Teachers'
2473 Retirement System established in chapter 238 or the State and
2474 County Officers' and Employees' Retirement System established in
2475 chapter 122, which are consolidated within the Florida
2476 Retirement System under s. 121.011, are eligible to elect
2477 participation in DROP if:

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2478 1. The member is not a renewed member under s. 121.122 or a
2479 member of the State Community College System Optional Retirement
2480 Program under s. 121.051, the Senior Management Service Optional
2481 Annuity Program under s. 121.055, or the optional retirement
2482 program for the State University System under s. 121.35.

2483 2. Except as provided in subparagraph 6., election to
2484 participate is made within 12 months immediately after ~~following~~
2485 the date on which the member first reaches normal retirement
2486 date, or, for a member who reaches normal retirement date based
2487 on service before he or she reaches age 62, or age 55 for
2488 Special Risk Class members, election to participate may be
2489 deferred to the 12 months immediately after ~~following~~ the date
2490 the member attains age 57, or age 52 for Special Risk Class
2491 members. A member who delays DROP participation during the 12-
2492 month period immediately after ~~following~~ his or her maximum DROP
2493 deferral date, except as provided in subparagraph 6., loses a
2494 month of DROP participation for each month delayed. A member who
2495 fails to make an election within the 12-month limitation period
2496 forfeits all rights to participate in DROP. The member shall
2497 advise his or her employer and the division in writing of the
2498 date DROP begins. The beginning date may be subsequent to the
2499 12-month election period but must be within the original 60-
2500 month participation period provided in subparagraph (b)1. When
2501 establishing eligibility of the member to participate in DROP,
2502 the member may elect to include or exclude any optional service
2503 credit purchased by the member from the total service used to
2504 establish the normal retirement date. A member who has dual
2505 normal retirement dates is eligible to elect to participate in
2506 DROP after attaining normal retirement date in either class.

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2507 3. The employer of a member electing to participate in
2508 DROP, or employers if dually employed, shall acknowledge in
2509 writing to the division the date the member's participation in
2510 DROP begins and the date the member's employment and DROP
2511 participation will terminate ~~terminates~~.

2512 4. Simultaneous employment of a participant ~~member~~ by
2513 additional Florida Retirement System employers subsequent to the
2514 commencement of ~~a member's~~ participation in DROP is permissible
2515 if such employers acknowledge in writing a DROP termination date
2516 no later than the participant's ~~member's~~ existing termination
2517 date or the maximum participation period provided in
2518 subparagraph (b)1.

2519 5. A DROP participant ~~member~~ may change employers while
2520 participating in DROP, subject to the following:

2521 a. A change of employment must take ~~takes~~ place without a
2522 break in service so that the member receives salary for each
2523 month of continuous DROP participation. If a member receives no
2524 salary during a month, DROP participation shall cease ~~ceases~~
2525 unless the employer verifies a continuation of the employment
2526 relationship for such participant ~~member~~ pursuant to s.
2527 121.021(39)(b).

2528 b. Such participant ~~The member~~ and new employer shall
2529 notify the division of the identity of the new employer on forms
2530 required by the division.

2531 c. The new employer shall acknowledge ~~acknowledges~~, in
2532 writing, the participant's ~~member's~~ DROP termination date, which
2533 may be extended but not beyond the maximum participation period
2534 provided in subparagraph (b)1., shall acknowledge ~~acknowledges~~
2535 liability for any additional retirement contributions and

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2536 interest required if the participant ~~member~~ fails to timely
2537 terminate employment, and is subject to the adjustment required
2538 in sub-subparagraph (c)5.d.

2539 6. Effective July 1, 2001, for instructional personnel as
2540 defined in s. 1012.01(2), election to participate in DROP may be
2541 made at any time after ~~following~~ the date on which the member
2542 first reaches normal retirement date. The member shall advise
2543 his or her employer and the division in writing of the date on
2544 which DROP begins. When establishing eligibility of the member
2545 to participate in DROP for the 60-month participation period
2546 provided in subparagraph (b)1., the member may elect to include
2547 or exclude any optional service credit purchased by the member
2548 from the total service used to establish the normal retirement
2549 date. A member who has dual normal retirement dates is eligible
2550 to elect to participate in either class.

2551 (c) *Benefits payable under DROP.*—

2552 1. Effective on the date of DROP participation, the
2553 member's initial normal monthly benefit, including creditable
2554 service, optional form of payment, and average final
2555 compensation, and the effective date of retirement are fixed.
2556 The beneficiary established under the Florida Retirement System
2557 is the beneficiary eligible to receive any DROP benefits payable
2558 if the DROP participant dies before completing the period of
2559 DROP participation. If a joint annuitant predeceases the member,
2560 the member may name a beneficiary to receive accumulated DROP
2561 benefits payable. The retirement benefit, the annual cost of
2562 living adjustments provided in s. 121.101, and interest accrue
2563 monthly in the Florida Retirement System Trust Fund. ~~For members~~
2564 ~~whose DROP participation begins:~~

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2565 ~~a. Before July 1, 2011,~~ The interest accrues at an
2566 effective annual rate of 6.5 percent compounded monthly, on the
2567 prior month's accumulated ending balance, up to the month of
2568 termination or death, except as provided in s. 121.053(7).

2569 ~~b. On or after July 1, 2011, the interest accrues at an~~
2570 ~~effective annual rate of 1.3 percent, compounded monthly, on the~~
2571 ~~prior month's accumulated ending balance, up to the month of~~
2572 ~~termination or death, except as provided in s. 121.053(7).~~

2573 2. Each employee who elects to participate in DROP may
2574 elect to receive a lump-sum payment for accrued annual leave
2575 earned in accordance with agency policy upon beginning
2576 participation in DROP. The accumulated leave payment certified
2577 to the division upon commencement of DROP shall be included in
2578 the calculation of the member's average final compensation. The
2579 employee electing the lump-sum payment is not eligible to
2580 receive a second lump-sum payment upon termination, except to
2581 the extent the employee has earned additional annual leave
2582 which, combined with the original payment, does not exceed the
2583 maximum lump-sum payment allowed by the employing agency's
2584 policy or rules. An early lump-sum payment shall be based on the
2585 hourly wage of the employee at the time he or she begins
2586 participation in DROP. If the member elects to wait and receive
2587 a lump-sum payment upon termination of DROP and termination of
2588 employment with the employer, any accumulated leave payment made
2589 at that time may not be included in the member's retirement
2590 benefit, which was determined and fixed by law when the employee
2591 elected to participate in DROP.

2592 3. The effective date of DROP participation and the
2593 effective date of retirement of a DROP participant shall be the

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2594 first day of the month selected by the member to begin
2595 participation in DROP, provided such date is properly
2596 established, with the written confirmation of the employer, and
2597 the approval of the division, on forms required by the division.

2598 4. Normal retirement benefits and any interest shall
2599 continue to accrue in DROP until the established termination
2600 date of DROP or until the participant ~~member~~ terminates
2601 employment or dies prior to ~~before~~ such date, except as provided
2602 in s. 121.053(7). Although individual DROP accounts shall ~~may~~
2603 not be established, a separate accounting of each participant's
2604 ~~member's~~ accrued benefits under DROP shall be calculated and
2605 provided to the participant ~~the member~~.

2606 5. At the conclusion of the participant's ~~the member's~~
2607 ~~participation in~~ DROP, the division shall distribute the
2608 participant's ~~member's~~ total accumulated DROP benefits, subject
2609 to the following:

2610 a. The division shall receive verification by the
2611 participant's ~~member's~~ employer or employers that the
2612 participant ~~member~~ has terminated all employment relationships
2613 as provided in s. 121.021(39).

2614 b. The terminated DROP participant or, if deceased, the
2615 participant's ~~member's~~ named beneficiary, shall elect on forms
2616 provided by the division to receive payment of the DROP benefits
2617 in accordance with one of the options listed below. If a
2618 participant ~~member~~ or beneficiary fails to elect a method of
2619 payment within 60 days after termination of DROP, the division
2620 shall pay a lump sum as provided in sub-sub-subparagraph (I).

2621 (I) Lump sum.—All accrued DROP benefits, plus interest,
2622 less withholding taxes remitted to the Internal Revenue Service,

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2623 shall be paid to the DROP participant or surviving beneficiary.

2624 (II) Direct rollover.—All accrued DROP benefits, plus
2625 interest, shall be paid from DROP directly to the custodian of
2626 an eligible retirement plan as defined in s. 402(c)(8)(B) of the
2627 Internal Revenue Code. However, in the case of an eligible
2628 rollover distribution to the surviving spouse of a deceased
2629 participant ~~member~~, an eligible retirement plan is an individual
2630 retirement account or an individual retirement annuity as
2631 described in s. 402(c)(9) of the Internal Revenue Code.

2632 (III) Partial lump sum.—A portion of the accrued DROP
2633 benefits shall be paid to DROP participant or surviving spouse,
2634 less withholding taxes remitted to the Internal Revenue Service,
2635 and the remaining DROP benefits must be transferred directly to
2636 the custodian of an eligible retirement plan as defined in s.
2637 402(c)(8)(B) of the Internal Revenue Code. However, in the case
2638 of an eligible rollover distribution to the surviving spouse of
2639 a deceased participant ~~member~~, an eligible retirement plan is an
2640 individual retirement account or an individual retirement
2641 annuity as described in s. 402(c)(9) of the Internal Revenue
2642 Code. The proportions must be specified by the DROP participant
2643 or surviving beneficiary.

2644 c. The form of payment selected by the DROP participant or
2645 surviving beneficiary must comply with the minimum distribution
2646 requirements of the Internal Revenue Code.

2647 d. A DROP participant who fails to terminate all employment
2648 relationships as provided in s. 121.021(39) shall be deemed as
2649 not retired, and the DROP election is null and void. Florida
2650 Retirement System membership shall be reestablished
2651 retroactively to the date of the commencement of DROP, and each

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2652 employer with whom the participant ~~member~~ continues employment
2653 must pay to the Florida Retirement System Trust Fund the
2654 difference between the DROP contributions paid in paragraph (i)
2655 and the contributions required for the applicable Florida
2656 Retirement System class of membership during the period the
2657 member participated in DROP, plus 6.5 percent interest
2658 compounded annually.

2659 6. The retirement benefits of any DROP participant who
2660 terminates all employment relationships as provided in s.
2661 121.021(39) but is reemployed in violation of the reemployment
2662 provisions of subsection (9) shall be ~~are~~ suspended during those
2663 months in which the retiree is in violation. Any retiree in
2664 violation of this subparagraph and any employer that employs or
2665 appoints such person without notifying the Division of
2666 Retirement to suspend retirement benefits are jointly and
2667 severally liable for any benefits paid during the reemployment
2668 limitation period. The employer must have a written statement
2669 from the retiree that he or she is not retired from a state-
2670 administered retirement system. Any retirement benefits received
2671 by a retiree while employed in violation of the reemployment
2672 limitations must be repaid to the Florida Retirement System
2673 Trust Fund, and his or her retirement benefits shall remain
2674 suspended until payment is made. Benefits suspended beyond the
2675 end of the reemployment limitation period apply toward repayment
2676 of benefits received in violation of the reemployment
2677 limitation.

2678 7. The accrued benefits of any DROP participant, and any
2679 contributions accumulated under the program, are not subject to
2680 assignment, execution, attachment, or any legal process

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2681 whatsoever, except for qualified domestic relations ~~court~~ orders
2682 by a court of competent jurisdiction, income deduction orders as
2683 provided in s. 61.1301, and federal income tax levies.

2684 8. DROP participants are not eligible for disability
2685 retirement benefits as provided in subsection (4).

2686 (14) PAYMENT OF BENEFITS.—This subsection applies to the
2687 payment of benefits to a payee (retiree or beneficiary) under
2688 the Florida Retirement System:

2689 (d) A payee whose retirement benefits are reduced by the
2690 application of maximum benefit limits under s. 415(b) of the
2691 Internal Revenue Code, as specified in s. 121.30(5), shall have
2692 the portion of his or her calculated benefit in the Florida
2693 Retirement System Defined Benefit System ~~System Pension~~ Plan which
2694 exceeds such federal limitation paid through the Florida
2695 Retirement System Preservation of Benefits Plan, as provided in
2696 s. 121.1001.

2697 Section 16. Subsection (1) and paragraph (a) of subsection
2698 (2) of section 121.1001, Florida Statutes, are amended to read:

2699 121.1001 Florida Retirement System Preservation of Benefits
2700 Plan.—Effective July 1, 1999, the Florida Retirement System
2701 Preservation of Benefits Plan is established as a qualified
2702 governmental excess benefit arrangement pursuant to s. 415(m) of
2703 the Internal Revenue Code. The Preservation of Benefits Plan is
2704 created as a separate portion of the Florida Retirement System,
2705 for the purpose of providing benefits to a payee (retiree or
2706 beneficiary) of the Florida Retirement System whose benefits
2707 would otherwise be limited by s. 415(b) of the Internal Revenue
2708 Code.

2709 (1) ELIGIBILITY TO PARTICIPATE IN THE PRESERVATION OF

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2710 BENEFITS PLAN.—A payee of the Florida Retirement System shall
2711 participate in the Preservation of Benefits Plan whenever ~~if~~ his
2712 or her earned benefit under the Florida Retirement System
2713 Defined Benefit System Pension Plan exceeds the benefit maximum
2714 established under s. 415(b) of the Internal Revenue Code.
2715 Participation in the Preservation of Benefits Plan shall
2716 continue for as long as the payee's earned benefit under the
2717 Florida Retirement System Defined Benefit pension plan is
2718 reduced by the application of the maximum benefit limit under s.
2719 415(b) of the Internal Revenue Code.

2720 (2) BENEFITS PAYABLE UNDER THE PRESERVATION OF BENEFITS
2721 PLAN.—

2722 (a) On and after July 1, 1999, the Division of Retirement
2723 shall pay to each eligible payee of the Florida Retirement
2724 System who retires before, on, or after such ~~that~~ date, a
2725 supplemental retirement benefit equal to the difference between
2726 the amount of the payee's monthly retirement benefit which would
2727 have been payable under the Florida Retirement System Defined
2728 Benefit System Pension Plan if not for a reduction due to the
2729 application of s. 415(b) of the Internal Revenue Code and the
2730 reduced monthly retirement benefit as paid to the payee. The
2731 Preservation of Benefits Plan benefit shall be computed and
2732 payable under the same terms and conditions and to the same
2733 person as would have applied under the Florida Retirement System
2734 Defined Benefit pension plan were it not for the federal
2735 limitation.

2736 Section 17. Present subsections (6) through (9) of that
2737 section 121.101, Florida Statutes, are redesignated as
2738 subsections (4) through (7), respectively, and present

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2739 subsections (1), (3), (4), and (5) of that section are amended,
2740 to read:

2741 121.101 Cost-of-living adjustment of benefits.—

2742 (1) The purpose of this section is to provide cost-of-
2743 living adjustments to the monthly benefits payable to all
2744 retired members of state-supported retirement systems.

2745 (3) Commencing July 1, 1987, the benefit of each retiree
2746 and annuitant ~~whose effective retirement date is before July 1,~~
2747 ~~2011,~~ shall be adjusted ~~annually~~ on each July 1 thereafter, as
2748 follows:

2749 (a) For those retirees and annuitants who have never
2750 received a cost-of-living adjustment under this section, the
2751 amount of the monthly benefit payable for the 12-month period
2752 commencing on the adjustment date shall be the amount of the
2753 member's initial benefit plus an amount equal to a percentage of
2754 the member's initial benefit; this percentage is derived by
2755 dividing the number of months the member has received an initial
2756 benefit by 12, and multiplying the result by 3.

2757 (b) For those retirees and annuitants who have received a
2758 cost-of-living adjustment under this section ~~subsection~~, the
2759 adjusted monthly benefit shall be the amount of the monthly
2760 benefit being received on June 30 immediately preceding the
2761 adjustment date plus an amount equal to 3 percent of this
2762 benefit.

2763 ~~(4) For members whose effective retirement date is on or~~
2764 ~~after July 1, 2011, the benefit of each retiree and annuitant~~
2765 ~~shall be adjusted annually on July 1 as follows:~~

2766 ~~(a) For those retirees and annuitants who have never~~
2767 ~~received a cost-of-living adjustment under this subsection, the~~

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2768 ~~amount of the monthly benefit payable for the 12-month period~~
2769 ~~commencing on the adjustment date shall be the amount of the~~
2770 ~~member's initial benefit plus an amount equal to a percentage of~~
2771 ~~the member's initial benefit. This percentage is derived by~~
2772 ~~dividing the number of months the member has received an initial~~
2773 ~~benefit by 12, and multiplying the result by the factor~~
2774 ~~calculated pursuant to paragraph (c).~~

2775 ~~(b) For those retirees and annuitants who have received a~~
2776 ~~cost-of-living adjustment under this subsection, the adjusted~~
2777 ~~monthly benefit shall be the amount of the monthly benefit being~~
2778 ~~received on June 30 immediately preceding the adjustment date~~
2779 ~~plus an amount determined by multiplying the benefit by the~~
2780 ~~factor calculated pursuant to paragraph (c).~~

2781 ~~(c) The department shall calculate a cost-of-living factor~~
2782 ~~for each retiree and beneficiary retiring on or after July 1,~~
2783 ~~2011. This factor shall equal the product of 3 percent~~
2784 ~~multiplied by the quotient of the sum of the member's service~~
2785 ~~credit earned for service before July 1, 2011, divided by the~~
2786 ~~sum of the member's total service credit earned.~~

2787 ~~(5) Subject to the availability of funding and the~~
2788 ~~Legislature enacting sufficient employer contributions~~
2789 ~~specifically for the purpose of funding the expiration of the~~
2790 ~~cost-of-living adjustment specified in subsection (4), in~~
2791 ~~accordance with s. 14, Art. X of the State Constitution, the~~
2792 ~~cost-of-living adjustment formula provided for in subsection (4)~~
2793 ~~shall expire effective June 30, 2016, and the benefit of each~~
2794 ~~retiree and annuitant shall be adjusted on each July 1~~
2795 ~~thereafter, as provided in subsection (3).~~

2796 Section 18. Paragraph (b) of subsection (1) of section

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2797 121.1115, Florida Statutes, is amended to read:

2798 121.1115 Purchase of retirement credit for out-of-state or
2799 federal service.—Effective January 1, 1995, a member may
2800 purchase creditable service for periods of public employment in
2801 another state and receive creditable service for such periods of
2802 employment. Service with the Federal Government, including any
2803 active military service, may be claimed. Upon completion of each
2804 year of service earned under the Florida Retirement System, a
2805 member may purchase up to 1 year of retirement credit for his or
2806 her out-of-state service, subject to the following provisions:

2807 (1) LIMITATIONS AND CONDITIONS.—To receive credit for the
2808 out-of-state service:

2809 (b) The member must have completed a minimum of 6 ~~the~~ years
2810 of creditable service ~~required for vesting~~ under the Florida
2811 Retirement System, excluding out-of-state service and in-state
2812 service claimed and purchased under s. 121.1122.

2813 Section 19. Paragraph (a) of subsection (2) of section
2814 121.1122, Florida Statutes, is amended to read:

2815 121.1122 Purchase of retirement credit for in-state public
2816 service and in-state service in accredited nonpublic schools and
2817 colleges, including charter schools and charter technical career
2818 centers.—Effective January 1, 1998, a member of the Florida
2819 Retirement System may purchase creditable service for periods of
2820 certain public or nonpublic employment performed in this state,
2821 as provided in this section.

2822 (2) LIMITATIONS AND CONDITIONS.—

2823 (a) A member is not eligible to receive credit for in-state
2824 service under this section until he or she has completed 6 ~~the~~
2825 years of creditable service ~~required for vesting~~ under the

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2826 Florida Retirement System, excluding service purchased under
2827 this section and out-of-state service claimed and purchased
2828 under s. 121.1115.

2829 Section 20. Subsection (1) of section 121.121, Florida
2830 Statutes, is amended to read:

2831 121.121 Authorized leaves of absence.—

2832 (1) A member may purchase creditable service for up to 2
2833 work years of authorized leaves of absence, including any leaves
2834 of absence covered under the Family Medical Leave Act, if:

2835 (a) The member has completed a minimum of 6 ~~the~~ years of
2836 creditable service ~~required for vesting~~, excluding periods for
2837 which a leave of absence was authorized;

2838 (b) The leave of absence is authorized in writing by the
2839 employer of the member and approved by the administrator;

2840 (c) The member returns to active employment performing
2841 service with a Florida Retirement System employer in a regularly
2842 established position immediately upon termination of the leave
2843 of absence and remains on the employer's payroll for 1 calendar
2844 month, except that a member who retires on disability while on a
2845 medical leave of absence shall ~~may~~ not be required to return to
2846 employment. A member whose work year is less than 12 months and
2847 whose leave of absence terminates between school years is
2848 eligible to receive credit for the leave of absence as long as
2849 ~~if~~ he or she returns to the employment of his or her employer at
2850 the beginning of the next school year and remains on the
2851 employer's payroll for 1 calendar month; and

2852 (d) The member makes the required contributions for service
2853 credit during the leave of absence, which shall be 8 percent
2854 until January 1, 1975, and 9 percent thereafter of his or her

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2855 rate of monthly compensation in effect immediately prior to
2856 ~~before~~ the commencement of such leave for each month of such
2857 period, plus 4 percent interest until July 1, 1975, and 6.5
2858 percent interest thereafter on such contributions, compounded
2859 annually each June 30 from the due date of the contribution to
2860 date of payment.

2861 ~~1.~~ Effective July 1, 1980, any leave of absence purchased
2862 pursuant to this section shall be is at the contribution rates
2863 specified in s. 121.071 ~~or s. 121.71~~ in effect at the time the
2864 leave is granted for the class of membership from which the
2865 leave of absence was granted; however, any member who purchased
2866 leave-of-absence credit prior to ~~before~~ July 1, 1980, for a
2867 leave of absence from a position in a class other than the
2868 regular membership class, may pay the appropriate additional
2869 contributions plus compound interest thereon and receive
2870 creditable service for such leave of absence in the membership
2871 class from which the member was granted the leave of absence.

2872 ~~2.~~ ~~Effective July 1, 2011, any leave of absence purchased~~
2873 ~~by the member pursuant to this section shall be at the employer~~
2874 ~~and employee contribution rates specified in s. 121.71 in effect~~
2875 ~~during the leave for the class of membership from which the~~
2876 ~~leave of absence was granted.~~

2877 Section 21. Section 121.125, Florida Statutes, is amended
2878 to read:

2879 121.125 Credit for workers' compensation payment periods.—A
2880 member of the retirement system created by this chapter who has
2881 been eligible or becomes eligible to receive workers'
2882 compensation payments for an injury or illness occurring during
2883 his or her employment while a member of any state retirement

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2884 system shall, upon return to active employment with a covered
2885 employer for 1 calendar month or upon approval for disability
2886 retirement in accordance with s. 121.091(4), receive full
2887 retirement credit for the period prior to such return to active
2888 employment or disability retirement for which the workers'
2889 compensation payments were received. However, no a member may
2890 ~~not~~ receive retirement credit for any such period occurring
2891 after the earlier of the date of maximum medical improvement as
2892 defined in s. 440.02 or the date termination has occurred as
2893 defined in s. 121.021(39). The employer of record at the time of
2894 the workers' compensation injury or illness shall make the
2895 required ~~employer and employee~~ retirement contributions based on
2896 the member's rate of monthly compensation immediately prior to
2897 his or her receiving workers' compensation payments for
2898 retirement credit received by the member. ~~The employer of record~~
2899 ~~at the time of the workers' compensation injury or illness shall~~
2900 ~~be assessed by the division a penalty of 1 percent of the~~
2901 ~~contributions on all contributions not paid on the first payroll~~
2902 ~~report after the member becomes eligible to receive credit. This~~
2903 ~~delinquent assessment may not be waived.~~

2904 Section 22. Section 121.161, Florida Statutes, is reenacted
2905 to read:

2906 121.161 References to other laws include amendments.—
2907 References in this chapter to state or federal laws or
2908 agreements are intended to include such laws as they now exist
2909 or may hereafter be amended.

2910 Section 23. Section 121.182, Florida Statutes, is amended
2911 to read:

2912 121.182 Retirement annuities authorized for city and county

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2913 personnel.—Cities ~~Municipalities~~ and counties are authorized to
 2914 purchase annuities for all city ~~municipal~~ and county personnel
 2915 with 25 or more years of creditable service who have reached age
 2916 50 and have applied for retirement under the Florida Retirement
 2917 System. No such annuity shall provide for more than the total
 2918 difference in retirement income between the retirement benefit
 2919 based on average monthly compensation and creditable service as
 2920 of the member's early retirement date and the early retirement
 2921 benefit. Cities ~~Municipalities~~ and counties may also purchase
 2922 annuities for members of the Florida Retirement System who have
 2923 out-of-state service in another state or country which is
 2924 documented as valid by the appropriate city or county. Such
 2925 annuities may be based on no more than 5 years of out-of-state
 2926 service and may equal, but not exceed, the benefits that would
 2927 be payable under the Florida Retirement System if credit for
 2928 out-of-state service was authorized under that system. Cities
 2929 ~~Municipalities~~ and counties are authorized to invest funds,
 2930 purchase annuities, or provide local supplemental retirement
 2931 programs for purposes of providing annuities for city or county
 2932 personnel. All retirement annuities shall comply with s. 14,
 2933 Art. X of the State Constitution.

2934 Section 24. Paragraphs (g) and (i) of subsection (3) and
 2935 subsections (4) and (5) of section 121.35, Florida Statutes, are
 2936 amended to read:

2937 121.35 Optional retirement program for the State University
 2938 System.—

2939 (3) ELECTION OF OPTIONAL PROGRAM.—

2940 (g) An eligible employee who is a member of the Florida
 2941 Retirement System at the time of election to participate in the

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2942 optional retirement program shall retain all retirement service
2943 credit earned under the Florida Retirement System, at the rate
2944 earned. No additional service credit in the Florida Retirement
2945 System shall ~~may not~~ be earned while the employee participates
2946 in the optional program, nor shall ~~and~~ the employee be ~~is not~~
2947 eligible for disability retirement under the Florida Retirement
2948 System. An eligible employee may transfer from the Florida
2949 Retirement System to his or her accounts under the State
2950 University System Optional Retirement Program a sum representing
2951 the present value of the employee's accumulated benefit
2952 obligation under the defined benefit program of the Florida
2953 Retirement System ~~pension plan~~ for any service credit accrued
2954 from the employee's first eligible transfer date to the optional
2955 retirement program through the actual date of such transfer, if
2956 such service credit was earned in the period from July 1, 1984,
2957 through December 31, 1992. The present value of the employee's
2958 accumulated benefit obligation shall be calculated as described
2959 in s. 121.4501(3) (c)2. Upon such transfer, all such service
2960 credit previously earned under the defined benefit program of
2961 the Florida Retirement System ~~pension plan~~ during this period
2962 shall be ~~is~~ nullified for purposes of entitlement to a future
2963 benefit under the defined benefit program of the Florida
2964 Retirement System ~~pension plan~~.

2965 (i) Effective January 1, 2008, through December 31, 2008,
2966 except for an employee who is a mandatory participant of the
2967 State University System Optional Retirement Program, an employee
2968 who has elected to participate in the State University System
2969 Optional Retirement Program shall have one opportunity, at the
2970 employee's discretion, to choose to transfer from this program

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2971 to the defined benefit program of the Florida Retirement System
2972 ~~Pension Plan~~ or to the Public Employee Optional Retirement
2973 Program investment plan, subject to the terms of the applicable
2974 contracts of the State University System Optional Retirement
2975 Program.

2976 1. If the employee chooses to move to the Public Employee
2977 Optional Retirement Program investment plan, any contributions,
2978 interest, and earnings creditable to the employee under the
2979 State University System Optional Retirement Program shall ~~must~~
2980 be retained by the employee in the State University System
2981 Optional Retirement Program, and the applicable provisions of s.
2982 121.4501(4) shall govern the election.

2983 2. If the employee chooses to move to the defined benefit
2984 program pension plan of the Florida Retirement System, the
2985 employee shall receive service credit equal to his or her years
2986 of service under the State University System Optional Retirement
2987 Program.

2988 a. The cost for such credit shall be ~~must be in~~ an amount
2989 representing the actuarial accrued liability for the affected
2990 period of service. The cost shall ~~must~~ be calculated using the
2991 discount rate and other relevant actuarial assumptions that were
2992 used to value the Florida Retirement System Defined Benefit
2993 ~~Pension~~ Plan liabilities in the most recent actuarial valuation.
2994 The calculation shall ~~must~~ include any service already
2995 maintained under the defined benefit ~~pension~~ plan in addition to
2996 the years under the State University System Optional Retirement
2997 Program. The actuarial accrued liability of any service already
2998 maintained under the defined benefit ~~pension~~ plan shall ~~must~~ be
2999 applied as a credit to total cost resulting from the

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3000 calculation. The division shall ~~must~~ ensure that the transfer
 3001 sum is prepared using a formula and methodology certified by an
 3002 enrolled actuary.

3003 b. The employee must transfer from his or her State
 3004 University System Optional Retirement Program account, and from
 3005 other employee moneys as necessary, a sum representing the
 3006 actuarial accrued liability immediately after ~~following~~ the time
 3007 of such movement, determined assuming that attained service
 3008 equals the sum of service in the defined benefit program ~~pension~~
 3009 ~~plan~~ and service in the State University System Optional
 3010 Retirement Program.

3011 (4) CONTRIBUTIONS.—

3012 (a) ~~1.~~ Through June 30, 2001, each employer shall contribute
 3013 on behalf of each participant in ~~member of~~ the optional
 3014 retirement program an amount equal to the normal cost portion of
 3015 the employer retirement contribution which would be required if
 3016 the participant ~~employee~~ were a regular member of the Florida
 3017 Retirement System defined benefit program ~~System Pension Plan~~,
 3018 plus the portion of the contribution rate required in s.
 3019 112.363(8) that would otherwise be assigned to the Retiree
 3020 Health Insurance Subsidy Trust Fund.

3021 ~~2.~~ Effective July 1, 2001, ~~through June 30, 2011,~~ each
 3022 employer shall contribute on behalf of each participant in
 3023 ~~member of~~ the optional ~~retirement~~ program an amount equal to
 3024 10.43 percent of the participant's ~~employee's~~ gross monthly
 3025 compensation.

3026 ~~3.~~ ~~Effective July 1, 2011,~~ ~~each member of the optional~~
 3027 ~~retirement program shall contribute an amount equal to the~~
 3028 ~~employee contribution required in s. 121.71(3).~~ The employer

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3029 ~~shall contribute on behalf of each such member an amount equal~~
3030 ~~to the difference between 10.43 percent of the employee's gross~~
3031 ~~monthly compensation and the amount equal to the employee's~~
3032 ~~required contribution based on the employee's gross monthly~~
3033 ~~compensation.~~

3034 4. The department shall deduct an amount approved by the
3035 Legislature to provide for the administration of this program.
3036 The payment of the contributions to the optional program which
3037 is required by this paragraph for each participant, ~~including~~
3038 ~~contributions by the employee,~~ shall be made by the employer to
3039 the department, which shall forward the contributions to the
3040 designated company or companies contracting for payment of
3041 benefits for the participant under ~~members of~~ the program.
3042 However, such contributions paid on behalf of an employee
3043 described in paragraph (3)(c) shall ~~may~~ not be forwarded to a
3044 company and shall ~~do~~ not begin to accrue interest until the
3045 employee has executed a contract and notified the department.
3046 ~~The department shall deduct an amount from the contributions to~~
3047 ~~provide for the administration of this program.~~

3048 (b) Each employer shall contribute on behalf of each
3049 participant in ~~member of~~ the optional retirement program an
3050 amount equal to the unfunded actuarial accrued liability portion
3051 of the employer contribution which would be required for members
3052 of the Florida Retirement System. This contribution shall be
3053 paid to the department for transfer to the Florida Retirement
3054 System Trust Fund.

3055 (c) An Optional Retirement Program Trust Fund shall be
3056 established in the State Treasury and administered by the
3057 department to make payments to the provider companies on behalf

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3058 of the optional retirement program participants ~~members~~, and to
3059 transfer the unfunded liability portion of the state optional
3060 retirement program contributions to the Florida Retirement
3061 System Trust Fund.

3062 (d) Contributions required for social security by each
3063 employer and each participant ~~employee~~, in the amount required
3064 for social security coverage as now or hereafter may be provided
3065 by the federal Social Security Act, shall be maintained for each
3066 participant in ~~member of~~ the optional retirement program and
3067 shall be ~~are~~ in addition to the retirement contributions
3068 specified in this subsection.

3069 (e) Each participant in ~~member of~~ the optional retirement
3070 program who has executed a contract may contribute by way of
3071 salary reduction or deduction a percentage amount of the
3072 participant's ~~employee's~~ gross compensation not to exceed the
3073 percentage amount contributed by the employer to the optional
3074 program, but in no case may such contribution ~~may not~~ exceed
3075 federal limitations. Payment of the participant's ~~employee's~~
3076 contributions shall be made by the financial officer of the
3077 employer to the division which shall forward the contributions
3078 to the designated company or companies contracting for payment
3079 of benefits for the participant under ~~members of~~ the program. A
3080 participant ~~member~~ may not make, through salary reduction, any
3081 voluntary employee contributions to any other plan under s.
3082 403(b) of the Internal Revenue Code, with the exception of a
3083 custodial account under s. 403(b)(7) of the Internal Revenue
3084 Code, until he or she has made an employee contribution to his
3085 or her optional program equal to the employer contribution. A
3086 participant ~~An employee~~ is responsible for monitoring his or her

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3087 individual tax-deferred income to ensure he or she does not
3088 exceed the maximum deferral amounts permitted under the Internal
3089 Revenue Code.

3090 (f) The Optional Retirement Trust Fund may accept for
3091 deposit into participant ~~member~~ contracts contributions in the
3092 form of rollovers or direct trustee-to-trustee transfers by or
3093 on behalf of participants ~~members~~ who are reasonably determined
3094 by the department to be eligible for rollover or transfer to the
3095 optional retirement program pursuant to the Internal Revenue
3096 Code, if such contributions are made in accordance with rules
3097 adopted by the department. Such contributions shall be accounted
3098 for in accordance with any applicable requirements of the
3099 Internal Revenue Code and ~~department~~ rules of the department.

3100 (g) Effective July 1, 2008, for purposes of paragraph (a)
3101 and notwithstanding s. 121.021(22)(b)1., the term "participant's
3102 ~~employee's~~ gross monthly compensation" includes salary payments
3103 made to eligible clinical faculty from a state university using
3104 funds provided by a faculty practice plan authorized by the
3105 Board of Governors of the State University System if:

3106 1. There is not any ~~no~~ employer contribution from the state
3107 university to any other retirement program with respect to such
3108 salary payments; and

3109 2. The employer contribution on behalf of the participant
3110 in a ~~member~~ of the optional retirement program with respect to
3111 such salary payments is made using funds provided by the faculty
3112 practice plan.

3113 (5) BENEFITS.—

3114 (a) Benefits are payable under the optional retirement
3115 program only to vested participants ~~members~~ ~~participating~~ in the

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3116 program, or their beneficiaries as designated by the participant
3117 ~~member~~ in the contract with a provider company, and such
3118 benefits shall be paid only by the designated company in
3119 accordance with s. 403(b) of the Internal Revenue Code and the
3120 terms of the annuity contract or contracts applicable to the
3121 participant ~~member~~. Benefits accrue in individual accounts that
3122 are participant-directed ~~member-directed~~, portable, and funded
3123 by employer ~~and employee~~ contributions and the earnings thereon.
3124 The participant ~~member~~ must be terminated ~~for 3 calendar months~~
3125 from all employment relationships with all Florida Retirement
3126 System employers, as provided in s. 121.021(39), to begin
3127 receiving the employer-funded benefit. Benefits funded by
3128 employer ~~and employee~~ contributions are payable in accordance
3129 with the following terms and conditions:

3130 1. Benefits shall be paid only to a participant
3131 ~~participating member~~, to his or her beneficiaries, or to his or
3132 her estate, as designated by the participant ~~member~~.

3133 2. Benefits shall be paid by the provider company or
3134 companies in accordance with the law, the provisions of the
3135 contract, and any applicable department rule or policy.

3136 3. In the event of a participant's ~~member's~~ death, moneys
3137 accumulated by, or on behalf of, the participant ~~member~~, less
3138 withholding taxes remitted to the Internal Revenue Service, if
3139 any, shall be distributed to the participant's ~~member's~~
3140 designated beneficiary or beneficiaries, or to the participant's
3141 ~~member's~~ estate, as if the participant ~~member~~ retired on the
3142 date of death, as provided in paragraph (c) ~~(d)~~. No other death
3143 benefits are available to survivors of participants ~~members~~
3144 under the optional retirement program except for such benefits,

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3145 or coverage for such benefits, as are separately afforded by the
3146 employer, at the employer's discretion.

3147 ~~(b) Benefits, including employee contributions, are not~~
3148 ~~payable for employee hardships, unforeseeable emergencies,~~
3149 ~~loans, medical expenses, educational expenses, purchase of a~~
3150 ~~principal residence, payments necessary to prevent eviction or~~
3151 ~~foreclosure on an employee's principal residence, or any other~~
3152 ~~reason before termination from all employment relationships with~~
3153 ~~participating employers for 3 calendar months.~~

3154 ~~(b)-(e)~~ Upon receipt by the provider company of a properly
3155 executed application for distribution of benefits, the total
3156 accumulated benefit shall be ~~is~~ payable to the participant
3157 ~~participating member~~ as:

- 3158 1. A lump-sum distribution to the participant ~~member~~;
- 3159 2. A lump-sum direct rollover distribution whereby all
3160 accrued benefits, plus interest and investment earnings, are
3161 paid from the participant's ~~member's~~ account directly to an
3162 eligible retirement plan, as defined in s. 402(c)(8)(B) of the
3163 Internal Revenue Code, on behalf of the participant ~~member~~;
- 3164 3. Periodic distributions;
- 3165 4. A partial lump-sum payment whereby a portion of the
3166 accrued benefit is paid to the participant ~~member~~ and the
3167 remaining amount is transferred to an eligible retirement plan,
3168 as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on
3169 behalf of the participant ~~member~~; or
- 3170 5. Such other distribution options as are provided for in
3171 the participant's ~~member's~~ optional retirement program contract.

3172 ~~(c)-(d)~~ Survivor benefits shall be ~~are~~ payable as:

- 3173 1. A lump-sum distribution payable to the beneficiaries or

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3174 to the deceased participant's ~~member's~~ estate;

3175 2. An eligible rollover distribution on behalf of the
3176 surviving spouse of a deceased participant ~~member~~, whereby all
3177 accrued benefits, plus interest and investment earnings, are
3178 paid from the deceased participant's ~~member's~~ account directly
3179 to an eligible retirement plan, as described in s. 402(c)(8)(B)
3180 of the Internal Revenue Code, on behalf of the surviving spouse;

3181 3. Such other distribution options as are provided for in
3182 the participant's ~~member's~~ optional retirement program contract;
3183 or

3184 4. A partial lump-sum payment whereby a portion of the
3185 accrued benefit is paid to the deceased participant's ~~member's~~
3186 surviving spouse or other designated beneficiaries, less
3187 withholding taxes remitted to the Internal Revenue Service, if
3188 any, and the remaining amount is transferred directly to an
3189 eligible retirement plan, as described in s. 402(c)(8)(B) of the
3190 Internal Revenue Code, on behalf of the surviving spouse. The
3191 proportions must be specified by the participant ~~member~~ or the
3192 surviving beneficiary.

3193
3194 This paragraph does not abrogate other applicable provisions of
3195 state or federal law providing payment of death benefits.

3196 (d) ~~(e)~~ The benefits payable to any person under the
3197 optional retirement program, and any contribution accumulated
3198 under such program, shall ~~are~~ not ~~be~~ subject to assignment,
3199 execution, or attachment or to any legal process whatsoever.

3200 (e) ~~(f)~~ A participant ~~participating member~~ who chooses to
3201 receive his or her benefits upon termination as defined in s.
3202 121.021 ~~must be terminated for 3 calendar months to be eligible~~

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3203 ~~to receive benefits funded by employer and employee~~
3204 ~~contributions. The member~~ must notify the provider company of
3205 the date he or she wishes benefits funded by ~~required~~ employer
3206 ~~and employee~~ contributions to begin ~~and must be terminated as~~
3207 ~~defined in s. 121.021 after the initial benefit payment or~~
3208 ~~distribution is received.~~ Benefits may be deferred until the
3209 participant member chooses to make such application.

3210 ~~(f)(g)~~ Benefits funded by the participant's participating
3211 ~~member's voluntary~~ personal contributions may be paid out at any
3212 time and in any form within the limits provided in the contract
3213 between the participant member and his or her ~~the~~ provider
3214 company. The participant member shall notify the provider
3215 company regarding the date and provisions under which he or she
3216 wants to receive the employee-funded portion of the plan.

3217 ~~(g)(h)~~ For purposes of this section, "retiree" means a
3218 former participant participating member of the optional
3219 retirement program who has terminated employment and has taken a
3220 distribution as provided in this subsection, except for a
3221 mandatory distribution of a de minimis account authorized by the
3222 department.

3223 Section 25. Section 121.355, Florida Statutes, is amended
3224 to read:

3225 121.355 Community College Optional Retirement Program and
3226 State University System Optional Retirement Program member
3227 transfer.—Effective January 1, 2009, through December 31, 2009,
3228 an employee who is a former participant in member of the
3229 Community College Optional Retirement Program or the State
3230 University System Optional Retirement Program and present
3231 mandatory participant in member of the Florida Retirement System

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3232 Defined Benefit System Pension Plan may receive service credit
3233 equal to his or her years of service under the Community College
3234 Optional Retirement Program or the State University System
3235 Optional Retirement Program under the following conditions:

3236 (1) The cost for such credit shall be an amount
3237 representing ~~must represent~~ the actuarial accrued liability for
3238 the affected period of service. The cost shall be calculated
3239 using the discount rate and other relevant actuarial assumptions
3240 that were used to value the Florida Retirement System Defined
3241 Benefit System Pension Plan liabilities in the most recent
3242 actuarial valuation. The calculation shall ~~must~~ include any
3243 service already maintained under the defined benefit pension
3244 plan in addition to the years under the Community College
3245 Optional Retirement Program or the State University System
3246 Optional Retirement Program. The actuarial accrued liability of
3247 any service already maintained under the defined benefit pension
3248 plan shall be applied as a credit to total cost resulting from
3249 the calculation. The division shall ensure that the transfer sum
3250 is prepared using a formula and methodology certified by an
3251 enrolled actuary.

3252 (2) The employee must transfer from his or her Community
3253 College Optional Retirement Program account or State University
3254 System Optional Retirement Program account, subject to the terms
3255 of the applicable optional retirement program contract, and from
3256 other employee moneys as necessary, a sum representing the
3257 actuarial accrued liability immediately after ~~following~~ the time
3258 of such movement, determined assuming that attained service
3259 equals the sum of service in the defined benefit program pension
3260 ~~plan~~ and service in the Community College Optional Retirement

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3261 Program or State University System Optional Retirement Program.

3262 (3) The employee may not receive service credit for a
3263 period of mandatory participation in the State University
3264 Optional Retirement Program or for a period for which a
3265 distribution was received from the Community College Optional
3266 Retirement Program or State University System Optional
3267 Retirement Program.

3268 Section 26. Section 121.4501, Florida Statutes, is amended
3269 to read:

3270 121.4501 Public Employee Optional Retirement Program
3271 ~~Florida Retirement System Investment Plan.~~

3272 (1) The Trustees of the State Board of Administration shall
3273 establish an optional ~~a defined contribution retirement~~ program
3274 called the ~~"Florida Retirement System Investment Plan" or~~
3275 ~~"investment plan"~~ for members of the Florida Retirement System
3276 under which retirement benefits will be provided for eligible
3277 employees who elect to participate in the program. The
3278 ~~retirement~~ benefits to be provided for or on behalf of
3279 participants in such optional retirement program shall be
3280 provided through employee-directed ~~member-directed~~ investments,
3281 in accordance with s. 401(a) of the Internal Revenue Code and
3282 its related regulations. The employers ~~employer and employee~~
3283 shall contribute ~~make contributions~~, as provided in this
3284 section, ~~and~~ ss. 121.571, and 121.71, to the Public Employee
3285 Optional Retirement Program ~~Florida Retirement System Investment~~
3286 ~~Plan~~ Trust Fund toward the funding of such optional benefits.

3287 (2) DEFINITIONS.—As used in this part, the term:

3288 (a) "Approved provider" or "provider" means a private
3289 sector company that is selected and approved by the state board

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3290 to offer one or more investment products or services to the
3291 optional retirement program ~~investment plan~~. The term includes a
3292 bundled provider that offers participants ~~members~~ a range of
3293 individually allocated or unallocated investment products and
3294 may offer a range of administrative and customer services, which
3295 may include accounting and administration of individual
3296 participant ~~member~~ benefits and contributions; individual
3297 participant ~~member~~ recordkeeping; asset purchase, control, and
3298 safekeeping; direct execution of the participant's ~~member's~~
3299 instructions as to asset and contribution allocation;
3300 calculation of daily net asset values; direct access to
3301 participant ~~member~~ account information; periodic reporting to
3302 participants ~~members~~, at least quarterly, on account balances
3303 and transactions; guidance, advice, and allocation services
3304 directly relating to the provider's own investment options or
3305 products, but only if the bundled provider complies with the
3306 standard of care of s. 404(a)(1)(A-B) of the Employee Retirement
3307 Income Security Act of 1974 (ERISA), ~~and if providing such~~
3308 guidance, advice, or allocation services does not constitute a
3309 prohibited transaction under s. 4975(c)(1) of the Internal
3310 Revenue Code or s. 406 of ERISA, notwithstanding that such
3311 prohibited transaction provisions do not apply to the optional
3312 retirement program; a broad array of distribution options; asset
3313 allocation; and retirement counseling and education. Private
3314 sector companies include investment management companies,
3315 insurance companies, depositories, and mutual fund companies.

3316 (b) "Average monthly compensation" means one-twelfth of
3317 average final compensation as defined in s. 121.021.

3318 (c) "Covered employment" means employment in a regularly

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3319 established position as defined in s. 121.021.

3320 (d) "Defined benefit program" means the defined benefit
3321 program of the Florida Retirement System administered under part
3322 I of this chapter.

3323 (e) "Division" means the Division of Retirement within the
3324 department.

3325 (f)~~(d)~~ "Electronic means" means by telephone, if the
3326 required information is received on a recorded line, or through
3327 Internet access, if the required information is captured online.

3328 (g)~~(e)~~ "Eligible employee" means an officer or employee, as
3329 defined in s. 121.021, who:

3330 1. Is a member of, or is eligible for membership in, the
3331 Florida Retirement System, including any renewed member of the
3332 Florida Retirement System initially enrolled before July 1,
3333 2010; or

3334 2. Participates in, or is eligible to participate in, the
3335 Senior Management Service Optional Annuity Program as
3336 established under s. 121.055(6), the State Community College
3337 System Optional Retirement Program as established under s.
3338 121.051(2)(c), or the State University System Optional
3339 Retirement Program established under s. 121.35.

3340
3341 The term does not include any member participating in the
3342 Deferred Retirement Option Program established under s.
3343 121.091(13), a retiree of a state-administered retirement system
3344 initially reemployed on or after July 1, 2010, or a mandatory
3345 participant of the State University System Optional Retirement
3346 Program established under s. 121.35.

3347 (h)~~(f)~~ "Employer" means an employer, as defined in s.

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3348 121.021, of an eligible employee.

3349 ~~(i)-(g)~~ "Optional retirement program" or "optional program"
3350 ~~"Florida Retirement System Investment Plan" or "investment plan"~~
3351 means the Public Employee Optional Retirement Program defined
3352 ~~contribution program~~ established under this part.

3353 ~~(h) "Florida Retirement System Pension Plan" or "pension~~
3354 ~~plan" means the defined benefit program of the Florida~~
3355 ~~Retirement System administered under part I of this chapter.~~

3356 ~~(j)-(i)~~ "Participant" "Member" or "employee" means an
3357 eligible employee who enrolls in the investment plan optional
3358 program as provided in subsection (4) ~~or~~, a terminated Deferred
3359 Retirement Option Program participant member as described in
3360 subsection (21), ~~or a beneficiary or alternate payee of a member~~
3361 ~~or employee.~~

3362 ~~(j) "Member contributions" or "employee contributions"~~
3363 ~~means the sum of all amounts deducted from the salary of a~~
3364 ~~member by his or her employer in accordance with s. 121.71(3)~~
3365 ~~and credited to his or her individual account in the investment~~
3366 ~~plan, plus any earnings on such amounts and any contributions~~
3367 ~~specified in paragraph (5)(e).~~

3368 (k) "Retiree" means a former participant member of the
3369 optional retirement program investment plan who has terminated
3370 employment and has taken a distribution ~~of vested employee or~~
3371 ~~employer contributions~~ as provided in s. 121.591, except for a
3372 mandatory distribution of a de minimis account authorized by the
3373 state board ~~or a minimum required distribution provided by s.~~
3374 ~~401(a)(9) of the Internal Revenue Code.~~

3375 (l) "Vested" or "vesting" means the guarantee that a
3376 participant member is eligible to receive a retirement benefit

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3377 upon completion of the required years of service under the
3378 optional retirement program investment plan.

3379 (3) ELIGIBILITY; RETIREMENT SERVICE CREDIT; TRANSFER OF
3380 BENEFITS.—

3381 (a) Participation in the Public Employee Optional
3382 Retirement Program is limited to eligible employees.
3383 Participation in the optional retirement program is in lieu of
3384 participation in the defined benefit program of the Florida
3385 Retirement System.

3386 (b) ~~(a)~~ An eligible employee who is a member of the defined
3387 benefit retirement program of the Florida Retirement System
3388 ~~employed in a regularly established position by a state employer~~
3389 ~~on June 1, 2002; by a district school board employer on~~
3390 ~~September 1, 2002; or by a local employer on December 1, 2002,~~
3391 ~~and who is a member of the pension plan~~ at the time of his or
3392 her election to participate in the Public Employee Optional
3393 Retirement Program investment plan shall retain all retirement
3394 service credit earned under the defined benefit retirement
3395 program of the Florida Retirement System pension plan as
3396 credited under the system and shall be is entitled to a deferred
3397 benefit upon termination, if eligible under the system. However,
3398 election to participate enroll in the Public Employee Optional
3399 Retirement Program investment plan terminates the active
3400 membership of the employee in the defined benefit program of the
3401 Florida Retirement System pension plan, and the service of a
3402 participant member in the Public Employee Optional Retirement
3403 Program shall investment plan is not be creditable under the
3404 defined benefit retirement program of the Florida Retirement
3405 System pension plan for purposes of benefit accrual but shall be

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3406 credited ~~is creditable~~ for purposes of vesting.

3407 (c)1. ~~(b)~~ Notwithstanding paragraph (b), ~~each (a),~~ an
3408 eligible employee who elects to participate in the Public
3409 Employee Optional Retirement Program investment plan and
3410 establishes one or more individual participant member accounts
3411 under the optional program may elect to transfer to the optional
3412 program investment plan a sum representing the present value of
3413 the employee's accumulated benefit obligation under the defined
3414 benefit retirement program of the Florida Retirement System
3415 ~~pension plan~~. Upon such transfer, all service credit previously
3416 earned under the defined benefit program of the Florida
3417 Retirement System shall be ~~pension plan is~~ nullified for
3418 purposes of entitlement to a future benefit under the defined
3419 benefit program of the Florida Retirement System pension plan. A
3420 participant is precluded from transferring member may not
3421 ~~transfer~~ the accumulated benefit obligation balance from the
3422 defined benefit program upon the expiration of the pension plan
3423 ~~after the time period afforded to enroll for enrolling in the~~
3424 optional program investment plan has expired.

3425 2.1. For purposes of this subsection, the present value of
3426 the member's accumulated benefit obligation is based upon the
3427 member's estimated creditable service and estimated average
3428 final compensation under the defined benefit program pension
3429 ~~plan~~, subject to recomputation under subparagraph 3. 2. For
3430 state employees enrolling under subparagraph (4) (a)1., initial
3431 estimates will ~~shall~~ be based upon creditable service and
3432 average final compensation as of midnight on June 30, 2002; for
3433 district school board employees enrolling under subparagraph
3434 (4) (b)1., initial estimates will ~~shall~~ be based upon creditable

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3435 service and average final compensation as of midnight on
3436 September 30, 2002; and for local government employees enrolling
3437 under subparagraph (4)(c)1., initial estimates will ~~shall~~ be
3438 based upon creditable service and average final compensation as
3439 of midnight on December 31, 2002. The dates respectively
3440 specified above shall be construed as ~~are~~ the "estimate date"
3441 for these employees. The actuarial present value of the
3442 employee's accumulated benefit obligation shall be based on the
3443 following:

3444 a. The discount rate and other relevant actuarial
3445 assumptions used to value the Florida Retirement System Trust
3446 Fund at the time the amount to be transferred is determined,
3447 consistent with the factors provided in sub-subparagraphs b. and
3448 c.

3449 b. A benefit commencement age, based on the member's
3450 estimated creditable service as of the estimate date.

3451 ~~e. Except as provided under sub-subparagraph d., for a~~
3452 ~~member initially enrolled:~~

3453 ~~(I) Before July 1, 2011,~~ The benefit commencement age shall
3454 be ~~is~~ the younger of the following, but shall ~~may~~ not be younger
3455 than the member's age as of the estimate date:

3456 (I) ~~(A)~~ Age 62; or

3457 (II) ~~(B)~~ The age the member would attain if the member
3458 completed 30 years of service with an employer, assuming the
3459 member worked continuously from the estimate date, and
3460 disregarding any vesting requirement that would otherwise apply
3461 under the defined benefit program of the Florida Retirement
3462 System pension plan.

3463 ~~(II) On or after July 1, 2011, the benefit commencement age~~

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3464 ~~is the younger of the following, but may not be younger than the~~
3465 ~~member's age as of the estimate date:~~

3466 ~~(A) Age 65; or~~

3467 ~~(B) The age the member would attain if the member completed~~
3468 ~~33 years of service with an employer, assuming the member worked~~
3469 ~~continuously from the estimate date, and disregarding any~~
3470 ~~vesting requirement that would otherwise apply under the pension~~
3471 ~~plan.~~

3472 ~~c.d.~~ For members of the Special Risk Class and for members
3473 of the Special Risk Administrative Support Class entitled to
3474 retain ~~the~~ special risk normal retirement date:

3475 ~~(I) Initially enrolled before July 1, 2011, the benefit~~
3476 ~~commencement age shall be is the younger of the following, but~~
3477 ~~shall may not be younger than the member's age as of the~~
3478 ~~estimate date:~~

3479 ~~(I)(A) Age 55; or~~

3480 ~~(II)(B) The age the member would attain if the member~~
3481 ~~completed 25 years of service with an employer, assuming the~~
3482 ~~member worked continuously from the estimate date, and~~
3483 ~~disregarding any vesting requirement that would otherwise apply~~
3484 ~~under the defined benefit program of the Florida Retirement~~
3485 ~~System pension plan.~~

3486 ~~(II) Initially enrolled on or after July 1, 2011, the~~
3487 ~~benefit commencement age is the younger of the following, but~~
3488 ~~may not be younger than the member's age as of the estimate~~
3489 ~~date:~~

3490 ~~(A) Age 60; or~~

3491 ~~(B) The age the member would attain if the member completed~~
3492 ~~30 years of service with an employer, assuming the member worked~~

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3493 ~~continuously from the estimate date, and disregarding any~~
3494 ~~vesting requirement that would otherwise apply under the pension~~
3495 ~~plan.~~

3496 d.e. The calculation shall ~~must~~ disregard vesting
3497 requirements and early retirement reduction factors that would
3498 otherwise apply under the defined benefit retirement program
3499 ~~pension plan.~~

3500 3.2. For each participant ~~member~~ who elects to transfer
3501 moneys from the defined benefit program ~~pension plan~~ to his or
3502 her account in the optional program ~~investment plan~~, the
3503 division shall recompute the amount transferred under
3504 subparagraph 2. ~~not later than 1.~~ ~~within~~ 60 days after the
3505 actual transfer of funds based upon the participant's ~~member's~~
3506 actual creditable service and actual final average compensation
3507 as of the initial date of participation in the optional program
3508 ~~investment plan~~. If the recomputed amount differs from the
3509 amount transferred under subparagraph 2. by \$10 or more, the
3510 division shall:

3511 a. Transfer, or cause to be transferred, from the Florida
3512 Retirement System Trust Fund to the participant's ~~member's~~
3513 account in the optional program the excess, if any, of the
3514 recomputed amount over the previously transferred amount
3515 together with interest from the initial date of transfer to the
3516 date of transfer under this subparagraph, based upon ~~the~~
3517 effective annual interest equal to the assumed return on the
3518 actuarial investment which was used in the most recent actuarial
3519 valuation of the system, compounded annually.

3520 b. Transfer, or cause to be transferred, from the
3521 participant's ~~member's~~ account to the Florida Retirement System

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3522 Trust Fund the excess, if any, of the previously transferred
3523 amount over the recomputed amount, together with interest from
3524 the initial date of transfer to the date of transfer under this
3525 subparagraph, based upon 6 percent effective annual interest,
3526 compounded annually, pro rata based on the participant's
3527 ~~member's~~ allocation plan.

3528 ~~3. If contribution adjustments are made as a result of~~
3529 ~~employer errors or corrections, including plan corrections,~~
3530 ~~following recomputation of the amount transferred under~~
3531 ~~subparagraph 1., the member is entitled to the additional~~
3532 ~~contributions or is responsible for returning any excess~~
3533 ~~contributions resulting from the correction. However, any return~~
3534 ~~of such erroneous excess pretax contribution by the plan must be~~
3535 ~~made within the period allowed by the Internal Revenue Service.~~
3536 ~~The present value of the member's accumulated benefit obligation~~
3537 ~~shall not be recalculated.~~

3538 4. As directed by the participant member, the state board
3539 shall transfer or cause to be transferred the appropriate
3540 amounts to the designated accounts. The board shall establish
3541 transfer procedures by rule, but the actual transfer shall not
3542 be later than ~~within~~ 30 days after the effective date of the
3543 member's participation in the optional program investment plan
3544 unless the major financial markets for securities available for
3545 a transfer are seriously disrupted by an unforeseen event which
3546 also ~~that~~ causes the suspension of trading on any national
3547 securities exchange in the country where the securities were
3548 issued. In that event, such ~~the~~ 30-day period of time may be
3549 extended by a resolution of the trustees ~~state board~~. Transfers
3550 are not commissionable or subject to other fees and may be in

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3551 the form of securities or cash, as determined by the state
 3552 board. Such securities shall be ~~are~~ valued as of the date of
 3553 receipt in the participant's ~~member's~~ account.

3554 5. If the ~~state~~ board or the division receives notification
 3555 from the United States Internal Revenue Service that this
 3556 paragraph or any portion of this paragraph will cause the
 3557 retirement system, or a portion thereof, to be disqualified for
 3558 tax purposes under the Internal Revenue Code, then the portion
 3559 that will cause the disqualification does not apply. Upon such
 3560 notice, the state board and the division shall notify the
 3561 presiding officers of the Legislature.

3562 (4) PARTICIPATION; ENROLLMENT.—

3563 (a)1. With respect to an eligible employee who is employed
 3564 in a regularly established position on June 1, 2002, by a state
 3565 employer:

3566 a. Any such employee may elect to participate in the Public
 3567 Employee Optional Retirement Program investment plan in lieu of
 3568 retaining his or her membership in the defined benefit program
 3569 of the Florida Retirement System pension plan. The election must
 3570 be made in writing or by electronic means and must be filed with
 3571 the third-party administrator by August 31, 2002, or, in the
 3572 case of an active employee who is on a leave of absence on April
 3573 1, 2002, by the last business day of the 5th month after
 3574 ~~following~~ the month the leave of absence concludes. This
 3575 election is irrevocable, except as provided in paragraph (e) ~~(g)~~.
 3576 Upon making such election, the employee shall be enrolled as a
 3577 participant member of the Public Employee Optional Retirement
 3578 Program investment plan, the employee's membership in the
 3579 Florida Retirement System shall be ~~is~~ governed by the provisions

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3580 of this part, and the employee's membership in the defined
3581 benefit program of the Florida Retirement System shall terminate
3582 ~~pension plan terminates~~. The employee's enrollment in the Public
3583 Employee Optional Retirement Program shall be ~~investment plan is~~
3584 effective the first day of the month for which a full month's
3585 employer contribution is made to the optional program ~~investment~~
3586 ~~plan~~.

3587 b. Any such employee who fails to elect to participate in
3588 the Public Employee Optional Retirement Program ~~investment plan~~
3589 within the prescribed time period is deemed to have elected to
3590 retain membership in the defined benefit program of the Florida
3591 Retirement System ~~pension plan~~, and the employee's option to
3592 elect to participate in the optional program ~~investment plan~~ is
3593 forfeited.

3594 2. With respect to employees who become eligible to
3595 participate in the Public Employee Optional Retirement Program
3596 ~~investment plan~~ by reason of employment in a regularly
3597 established position with a state employer commencing after
3598 April 1, 2002:

3599 a. Any such employee shall, by default, be enrolled in the
3600 defined benefit retirement program of the Florida Retirement
3601 System ~~pension plan~~ at the commencement of employment, and may,
3602 by the last business day of the 5th month after ~~following~~ the
3603 employee's month of hire, elect to participate in the Public
3604 Employee Optional Retirement Program ~~investment plan~~. The
3605 employee's election must be made in writing or by electronic
3606 means and must be filed with the third-party administrator. The
3607 election to participate in the optional program ~~investment plan~~
3608 is irrevocable, except as provided in paragraph (e) ~~(g)~~.

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3609 b. If the employee files such election within the
3610 prescribed time period, enrollment in the optional program shall
3611 be investment plan is effective on the first day of employment.
3612 The employer retirement contributions paid through the month of
3613 the employee plan change shall be transferred to the optional
3614 investment program, and, effective the first day of the next
3615 month, the employer shall ~~and employee must~~ pay the applicable
3616 contributions based on the employee membership class in the
3617 optional program.

3618 c. Any such ~~An~~ employee who fails to elect to participate
3619 in the Public Employee Optional Retirement Program investment
3620 plan within the prescribed time period is deemed to have elected
3621 to retain membership in the defined benefit program of the
3622 Florida Retirement System pension plan, and the employee's
3623 option to elect to participate in the optional program
3624 investment plan is forfeited.

3625 3. With respect to employees who become eligible to
3626 participate in the Public Employee Optional Retirement Program
3627 investment plan pursuant to s. 121.051(2)(c)3. or s.
3628 121.35(3)(i), any such ~~the~~ employee may elect to participate in
3629 the Public Employee Optional Retirement Program investment plan
3630 in lieu of retaining his or her participation membership in the
3631 State Community College System Optional Retirement Program or
3632 the State University System Optional Retirement Program. The
3633 election must be made in writing or by electronic means and must
3634 be filed with the third-party administrator. This election is
3635 irrevocable, except as provided in paragraph (e) ~~(g)~~. Upon
3636 making such election, the employee shall be enrolled as a
3637 participant of member in the Public Employee Optional Retirement

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3638 Program investment plan, the employee's membership in the
3639 Florida Retirement System shall be ~~is~~ governed by the provisions
3640 of this part, and the employee's participation in the State
3641 Community College System Optional Retirement Program or the
3642 State University System Optional Retirement Program shall
3643 terminate ~~terminates~~. The employee's enrollment in the Public
3644 Employee Optional Retirement Program shall be ~~investment plan is~~
3645 effective ~~on~~ the first day of the month for which a full month's
3646 employer ~~and employee~~ contribution is made to the optional
3647 program investment plan.

3648 4. For purposes of this paragraph, "state employer" means
3649 any agency, board, branch, commission, community college,
3650 department, institution, institution of higher education, or
3651 water management district of the state, which participates in
3652 the Florida Retirement System for the benefit of certain
3653 employees.

3654 (b)1. With respect to an eligible employee who is employed
3655 in a regularly established position on September 1, 2002, by a
3656 district school board employer:

3657 a. Any such employee may elect to participate in the Public
3658 Employee Optional Retirement Program ~~investment plan~~ in lieu of
3659 retaining his or her membership in the defined benefit program
3660 of the Florida Retirement System ~~pension plan~~. The election must
3661 be made in writing or by electronic means and must be filed with
3662 the third-party administrator by November 30, or, in the case of
3663 an active employee who is on a leave of absence on July 1, 2002,
3664 by the last business day of the 5th month after ~~following~~ the
3665 month the leave of absence concludes. This election is
3666 irrevocable, except as provided in paragraph (e) ~~(g)~~. Upon

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3667 making such election, the employee shall be enrolled as a
3668 participant member of the Public Employee Optional Retirement
3669 Program investment plan, the employee's membership in the
3670 Florida Retirement System shall be ~~is~~ governed by the provisions
3671 of this part, and the employee's membership in the defined
3672 benefit program of the Florida Retirement System shall terminate
3673 pension plan terminates. The employee's enrollment in the Public
3674 Employee Optional Retirement Program shall be ~~investment plan is~~
3675 effective the first day of the month for which a full month's
3676 employer contribution is made to the optional investment
3677 program.

3678 b. Any such employee who fails to elect to participate in
3679 the Public Employee Optional Retirement Program investment plan
3680 within the prescribed time period is deemed to have elected to
3681 retain membership in the defined benefit program of the Florida
3682 Retirement System pension plan, and the employee's option to
3683 elect to participate in the optional program investment plan is
3684 forfeited.

3685 2. With respect to employees who become eligible to
3686 participate in the Public Employee Optional Retirement Program
3687 investment plan by reason of employment in a regularly
3688 established position with a district school board employer
3689 commencing after July 1, 2002:

3690 a. Any such employee shall, by default, be enrolled in the
3691 defined benefit retirement program of the Florida Retirement
3692 System pension plan at the commencement of employment, and may,
3693 by the last business day of the 5th month following the
3694 employee's month of hire, elect to participate in the Public
3695 Employee Optional Retirement Program investment plan. The

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3696 employee's election must be made in writing or by electronic
3697 means and must be filed with the third-party administrator. The
3698 election to participate in the optional program ~~investment plan~~
3699 is irrevocable, except as provided in paragraph (e) ~~(g)~~.

3700 b. If the employee files such election within the
3701 prescribed time period, enrollment in the optional program shall
3702 be ~~investment plan~~ is effective on the first day of employment.
3703 The employer retirement contributions paid through the month of
3704 the employee plan change shall be transferred to the optional
3705 program ~~investment plan~~, and, effective the first day of the
3706 next month, the employer shall pay the applicable contributions
3707 based on the employee membership class in the optional program
3708 ~~investment plan~~.

3709 c. Any such employee who fails to elect to participate in
3710 the Public Employee Optional Retirement Program ~~investment plan~~
3711 within the prescribed time period is deemed to have elected to
3712 retain membership in the defined benefit program of the Florida
3713 Retirement System ~~pension plan~~, and the employee's option to
3714 elect to participate in the optional program ~~investment plan~~ is
3715 forfeited.

3716 3. For purposes of this paragraph, "district school board
3717 employer" means any district school board that participates in
3718 the Florida Retirement System for the benefit of certain
3719 employees, or a charter school or charter technical career
3720 center that participates in the Florida Retirement System as
3721 provided in s. 121.051(2)(d).

3722 (c)1. With respect to an eligible employee who is employed
3723 in a regularly established position on December 1, 2002, by a
3724 local employer:

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3725 a. Any such employee may elect to participate in the Public
3726 Employee Optional Retirement Program investment plan in lieu of
3727 retaining his or her membership in the defined benefit program
3728 of the Florida Retirement System pension plan. The election must
3729 be made in writing or by electronic means and must be filed with
3730 the third-party administrator by February 28, 2003, or, in the
3731 case of an active employee who is on a leave of absence on
3732 October 1, 2002, by the last business day of the 5th month
3733 following the month the leave of absence concludes. This
3734 election is irrevocable, except as provided in paragraph (e)
3735 ~~(g)~~. Upon making such election, the employee shall be enrolled
3736 as a participant of the Public Employee Optional Retirement
3737 Program investment plan, the employee's membership in the
3738 Florida Retirement System shall be ~~is~~ governed by the provisions
3739 of this part, and the employee's membership in the defined
3740 benefit program of the Florida Retirement System shall terminate
3741 pension plan terminates. The employee's enrollment in the Public
3742 Employee Optional Retirement Program shall be investment plan is
3743 effective the first day of the month for which a full month's
3744 employer contribution is made to the optional program investment
3745 plan.

3746 b. Any such employee who fails to elect to participate in
3747 the Public Employee Optional Retirement Program investment plan
3748 within the prescribed time period is deemed to have elected to
3749 retain membership in the defined benefit program of the Florida
3750 Retirement System pension plan, and the employee's option to
3751 elect to participate in the optional program investment plan is
3752 forfeited.

3753 2. With respect to employees who become eligible to

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3754 participate in the Public Employee Optional Retirement Program
3755 ~~investment plan~~ by reason of employment in a regularly
3756 established position with a local employer commencing after
3757 October 1, 2002:

3758 a. Any such employee shall, by default, be enrolled in the
3759 defined benefit retirement program of the Florida Retirement
3760 System ~~pension plan~~ at the commencement of employment, and may,
3761 by the last business day of the 5th month after ~~following~~ the
3762 employee's month of hire, elect to participate in the Public
3763 Employee Optional Retirement Program ~~investment plan~~. The
3764 employee's election must be made in writing or by electronic
3765 means and must be filed with the third-party administrator. The
3766 election to participate in the optional program ~~investment plan~~
3767 is irrevocable, except as provided in paragraph (e) ~~(g)~~.

3768 b. If the employee files such election within the
3769 prescribed time period, enrollment in the optional program shall
3770 be ~~investment plan~~ is effective on the first day of employment.
3771 The employer retirement contributions paid through the month of
3772 the employee plan change shall be transferred to the optional
3773 program ~~investment plan~~, and, effective the first day of the
3774 next month, the employer shall pay the applicable contributions
3775 based on the employee membership class in the optional program
3776 ~~investment plan~~.

3777 c. Any such employee who fails to elect to participate in
3778 the Public Employee Optional Retirement Program ~~investment plan~~
3779 within the prescribed time period is deemed to have elected to
3780 retain membership in the defined benefit program of the Florida
3781 Retirement System ~~pension plan~~, and the employee's option to
3782 elect to participate in the optional program ~~investment plan~~ is

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3783 forfeited.

3784 3. For purposes of this paragraph, "local employer" means
3785 any employer not included in paragraph (a) or paragraph (b).

3786 (d) Contributions available for self-direction by a
3787 participant ~~member~~ who has not selected one or more specific
3788 investment products shall be allocated as prescribed by the
3789 state board. The third-party administrator shall notify any such
3790 participant ~~the member~~ at least quarterly that the participant
3791 ~~member~~ should take an affirmative action to make an asset
3792 allocation among the optional program investment products.

3793 ~~(c) On or after July 1, 2011, a member of the pension plan~~
3794 ~~who obtains a refund of employee contributions retains his or~~
3795 ~~her prior plan choice upon return to employment in a regularly~~
3796 ~~established position with a participating employer.~~

3797 ~~(f) A member of the investment plan who takes a~~
3798 ~~distribution of any contributions from his or her investment~~
3799 ~~plan account is considered a retiree. A retiree who is initially~~
3800 ~~reemployed on or after July 1, 2010, is not eligible for renewed~~
3801 ~~membership.~~

3802 ~~(e)(g)~~ After the period during which an eligible employee
3803 had the choice to elect the defined benefit program pension plan
3804 or the optional retirement program investment plan, or the month
3805 after following the receipt of the eligible employee's plan
3806 election, if sooner, the employee shall have one opportunity, at
3807 the employee's discretion, to choose to move from the defined
3808 benefit program pension plan to the optional retirement program
3809 investment plan or from the optional retirement program
3810 investment plan to the defined benefit program pension plan.
3811 Eligible employees may elect to move between Florida Retirement

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3812 System programs ~~plans~~ only if they are earning service credit in
3813 an employer-employee relationship consistent with s.
3814 121.021(17)(b), excluding leaves of absence without pay.
3815 Effective July 1, 2005, such elections are effective on the
3816 first day of the month after ~~following~~ the receipt of the
3817 election by the third-party administrator and are not subject to
3818 the requirements regarding an employer-employee relationship or
3819 receipt of contributions for the eligible employee in the
3820 effective month, except when the election is received by the
3821 third-party administrator. This paragraph is contingent upon
3822 approval from ~~by~~ the Internal Revenue Service for including the
3823 choice described herein within the programs offered by the
3824 Florida Retirement System.

3825 1. If the employee chooses to move to the optional
3826 retirement program ~~investment plan~~, the applicable provisions of
3827 this section shall ~~subsection (3)~~ govern the transfer.

3828 2. If the employee chooses to move to the defined benefit
3829 program ~~pension plan~~, the employee must transfer from his or her
3830 optional retirement program ~~investment plan~~ account, and from
3831 other employee moneys as necessary, a sum representing the
3832 present value of that employee's accumulated benefit obligation
3833 immediately after ~~following~~ the time of such movement,
3834 determined assuming that attained service equals the sum of
3835 service in the defined benefit program ~~pension plan~~ and service
3836 in the optional retirement program ~~investment plan~~. Benefit
3837 commencement occurs on the first date the employee is eligible
3838 for unreduced benefits, using the discount rate and other
3839 relevant actuarial assumptions that were used to value the
3840 defined benefit ~~pension~~ plan liabilities in the most recent

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3841 actuarial valuation. For any employee who, at the time of the
3842 second election, already maintains an accrued benefit amount in
3843 the defined benefit program ~~pension plan~~, the then-present value
3844 of the accrued benefit shall be ~~is~~ deemed part of the required
3845 transfer amount. The division shall ~~must~~ ensure that the
3846 transfer sum is prepared using a formula and methodology
3847 certified by an enrolled actuary. ~~A refund of any employee~~
3848 ~~contributions or additional member payments made which exceed~~
3849 ~~the employee contributions that would have accrued had the~~
3850 ~~member remained in the pension plan and not transferred to the~~
3851 ~~investment plan is not permitted.~~

3852 3. Notwithstanding subparagraph 2., an employee who chooses
3853 to move to the defined benefit program ~~pension plan~~ and who
3854 became eligible to participate in the optional retirement
3855 program ~~investment plan~~ by reason of employment in a regularly
3856 established position with a state employer after June 1, 2002; a
3857 district school board employer after September 1, 2002; or a
3858 local employer after December 1, 2002, must transfer from his or
3859 her optional retirement program ~~investment plan~~ account, and
3860 from other employee moneys as necessary, a sum representing the
3861 employee's actuarial accrued liability. ~~A refund of any employee~~
3862 ~~contributions or additional participant payments made which~~
3863 ~~exceed the employee contributions that would have accrued had~~
3864 ~~the member remained in the pension plan and not transferred to~~
3865 ~~the investment plan is not permitted.~~

3866 4. An employee's ability to transfer from the defined
3867 benefit program ~~pension plan~~ to the optional retirement program
3868 ~~investment plan~~ pursuant to paragraphs (a)-(d), and the ability
3869 of a current employee to have an option to later transfer back

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3870 into the defined benefit program ~~pension plan~~ under subparagraph
3871 2., shall be deemed a significant system amendment. Pursuant to
3872 s. 121.031(4), any resulting unfunded liability arising from
3873 actual original transfers from the defined benefit program
3874 ~~pension plan~~ to the optional program investment plan must be
3875 amortized within 30 plan years as a separate unfunded actuarial
3876 base independent of the reserve stabilization mechanism defined
3877 in s. 121.031(3)(f). For the first 25 years, a direct
3878 amortization payment may not be calculated for this base. During
3879 this 25-year period, the separate base shall be used to offset
3880 the impact of employees exercising their second program election
3881 under this paragraph. It is the intent of the Legislature that
3882 the actuarial funded status of the defined benefit program
3883 ~~pension plan~~ will not be affected by such second program
3884 elections in any significant manner, after due recognition of
3885 the separate unfunded actuarial base. After ~~Following~~ the
3886 initial 25-year period, any remaining balance of the original
3887 separate base shall be amortized over the remaining 5 years of
3888 the required 30-year amortization period.

3889 5. If the employee chooses to transfer from the optional
3890 retirement program investment plan to the defined benefit
3891 program pension plan and retains an excess account balance in
3892 the optional program investment plan after satisfying the buy-in
3893 requirements under this paragraph, the excess may not be
3894 distributed until the member retires from the defined benefit
3895 program pension plan. The excess account balance may be rolled
3896 over to the defined benefit program pension plan and used to
3897 purchase service credit or upgrade creditable service in that
3898 program ~~the pension plan~~.

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3899 (5) CONTRIBUTIONS.—

3900 (a) Each ~~The employee and~~ employer shall contribute on
3901 behalf of each participant in ~~make the required contributions to~~
3902 the investment plan based on a percentage of the employee's
3903 gross monthly compensation Public Employee Optional Retirement
3904 Program, as provided in part III of this chapter.

3905 ~~(b) Employee contributions shall be paid as provided in s.~~
3906 ~~121.71.~~

3907 ~~(c)~~ The state board, acting as plan fiduciary, shall ~~must~~
3908 ensure that all plan assets are held in a trust, pursuant to s.
3909 401 of the Internal Revenue Code. The fiduciary shall ~~must~~
3910 ensure that said ~~such~~ contributions are allocated as follows:

3911 1. ~~The employer and employee contribution~~ portion earmarked
3912 for participant ~~member~~ accounts shall be used to purchase
3913 interests in the appropriate investment vehicles for the
3914 accounts of each participant as specified by the participant
3915 ~~member~~, or in accordance with paragraph (4) (d).

3916 2. ~~The employer contribution~~ portion earmarked for
3917 administrative and educational expenses shall be transferred to
3918 the board ~~Florida Retirement System Investment Plan Trust Fund~~.

3919 3. ~~The employer contribution~~ portion earmarked for
3920 disability benefits shall be transferred to the department
3921 ~~Florida Retirement System Trust Fund~~.

3922 ~~(b) (d)~~ Employers are ~~The third-party administrator is~~
3923 responsible for ~~monitoring and~~ notifying participants regarding
3924 ~~employers of the~~ maximum contribution levels permitted ~~allowed~~
3925 ~~for members~~ under the Internal Revenue Code. If a participant
3926 ~~member~~ contributes to any other tax-deferred plan, he or she ~~the~~
3927 ~~member~~ is responsible for ensuring that total contributions made

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3928 to the optional program investment plan and to any other such
3929 plan do not exceed federally permitted maximums.

3930 ~~(c)-(e)~~ The Public Employee Optional Retirement Program
3931 ~~investment plan~~ may accept for deposit into participant member
3932 accounts contributions in the form of rollovers or direct
3933 trustee-to-trustee transfers by or on behalf of participants
3934 ~~members~~, reasonably determined by the ~~state~~ board to be eligible
3935 for rollover or transfer to the optional retirement program
3936 ~~investment plan~~ pursuant to the Internal Revenue Code, if such
3937 contributions are made in accordance with rules as may be
3938 adopted by the board. Such contributions shall ~~must~~ be accounted
3939 for in accordance with any applicable Internal Revenue Code
3940 requirements and rules of the ~~state~~ board.

3941 (6) VESTING REQUIREMENTS.—

3942 ~~(a) A member is fully and immediately vested in all~~
3943 ~~employee contributions paid to the investment plan as provided~~
3944 ~~in s. 121.71, plus interest and earnings thereon and less~~
3945 ~~investment fees and administrative charges.~~

3946 ~~(a)-(b)~~1. With respect to employer contributions paid on
3947 behalf of the participant member to the optional retirement
3948 program investment plan, plus interest and earnings thereon and
3949 less investment fees and administrative charges, a participant
3950 ~~member~~ is vested after completing 1 work year with an employer,
3951 including any service while the participant member was a member
3952 of the defined benefit program pension plan or an optional
3953 retirement program authorized under s. 121.051(2)(c) or s.
3954 121.055(6).

3955 2. If the participant member terminates employment before
3956 satisfying the vesting requirements, the nonvested accumulation

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3957 must be transferred from the participant's ~~member's~~ accounts to
3958 the state board for deposit and investment by the state board in
3959 the its suspense account created within the Public Employee
3960 Optional Retirement Program ~~Florida Retirement System Investment~~
3961 ~~Plan~~ Trust Fund. If the terminated participant ~~member~~ is
3962 reemployed as an eligible employee within 5 years, the state
3963 board shall transfer to the participant's ~~member's~~ account any
3964 amount previously transferred from the participant's ~~member's~~
3965 accounts to the suspense account, plus actual earnings on such
3966 amount while in the suspense account.

3967 ~~(b)(e)~~1. With respect to amounts ~~contributed by an employer~~
3968 ~~and~~ transferred from the defined benefit program ~~pension plan~~ to
3969 the investment program ~~plan~~, plus interest and earnings, and
3970 less investment fees and administrative charges, a participant
3971 ~~member~~ shall be vested in the amount transferred upon meeting
3972 the service ~~vesting~~ requirements for the participant's ~~member's~~
3973 membership class as set forth in s. 121.021(29) ~~121.021(45)~~. The
3974 third-party administrator shall account for such amounts for
3975 each participant ~~member~~. The division shall notify the
3976 participant ~~member~~ and the third-party administrator when the
3977 participant ~~member~~ has satisfied the vesting period for Florida
3978 Retirement System purposes.

3979 2. If the participant ~~member~~ terminates employment before
3980 satisfying the vesting requirements, the nonvested accumulation
3981 must be transferred from the participant's ~~member's~~ accounts to
3982 the state board for deposit and investment by the state board in
3983 the suspense account created within the Public Employee Optional
3984 Retirement Program ~~Florida Retirement System Investment Plan~~
3985 Trust Fund. If the terminated participant ~~member~~ is reemployed

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3986 as an eligible employee within 5 years, the state board shall
 3987 transfer to the participant's account ~~member's accounts~~ any
 3988 amount previously transferred from the participant's ~~member's~~
 3989 accounts to the suspense account, plus the actual earnings on
 3990 such amount while in the suspense account.

3991 (c) ~~(d)~~ Any nonvested accumulations transferred from a
 3992 participant's ~~member's~~ account to the ~~state board's~~ suspense
 3993 account shall be forfeited, ~~including accompanying service~~
 3994 ~~credit,~~ by the participant ~~member~~ if the participant ~~member~~ is
 3995 not reemployed as an eligible employee within 5 years after
 3996 termination.

3997 ~~(e) If the member elects to receive any of his or her~~
 3998 ~~vested employee or employer contributions upon termination of~~
 3999 ~~employment as provided in s. 121.021(39) (a), except for a~~
 4000 ~~mandatory distribution of a de minimis account authorized by the~~
 4001 ~~state board or a minimum required distribution provided by s.~~
 4002 ~~401(a) (9) of the Internal Revenue Code, the member shall forfeit~~
 4003 ~~all nonvested employer contributions, and accompanying service~~
 4004 ~~credit, paid on behalf of the member to the investment plan.~~

4005 (7) BENEFITS.—Under the Public Employee Optional Retirement
 4006 Program investment plan, ~~benefits must:~~

4007 (a) Benefits shall be provided in accordance with s. 401(a)
 4008 of the Internal Revenue Code.

4009 (b) Benefits shall accrue in individual accounts that are
 4010 participant-directed ~~member-directed,~~ portable, and funded by
 4011 employer ~~and employee~~ contributions and earnings thereon.

4012 (c) Benefits shall be payable in accordance with the
 4013 provisions of s. 121.591.

4014 (8) ~~INVESTMENT PLAN ADMINISTRATION OF PROGRAM.~~—

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4015 (a) The optional retirement program investment plan shall
4016 be administered by the state board and affected employers. The
4017 ~~state~~ board may require oaths, by affidavit or otherwise, and
4018 acknowledgments from persons in connection with the
4019 administration of its statutory duties and responsibilities for
4020 this program ~~the investment plan~~. An oath, by affidavit or
4021 otherwise, may not be required of an employee participant ~~a~~
4022 ~~member~~ at the time of enrollment. Acknowledgment of an
4023 employee's election to participate in the program shall be no
4024 greater than necessary to confirm the employee's election. The
4025 state board shall adopt rules to carry out its statutory duties
4026 with respect to administering the optional retirement program
4027 ~~investment plan~~, including establishing the roles and
4028 responsibilities of affected state, local government, and
4029 education-related employers, the state board, the department,
4030 and third-party contractors. The department shall adopt rules
4031 necessary to administer the optional program investment plan in
4032 coordination with the defined benefit program pension plan and
4033 the disability benefits available under the optional program
4034 ~~investment plan~~.

4035 (b) ~~(a)~~1. The state board shall select and contract with ~~a~~
4036 one third-party administrator to provide administrative services
4037 if those services cannot be competitively and contractually
4038 provided by the Division of Retirement within the Department of
4039 Management Services. With the approval of the state board, the
4040 third-party administrator may subcontract with other
4041 organizations or individuals to provide components of the
4042 administrative services. As a cost of administration, the ~~state~~
4043 board may compensate any such contractor for its services, in

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4044 accordance with the terms of the contract, as is deemed
4045 necessary or proper by the board. The third-party administrator
4046 may not be an approved provider or be affiliated with an
4047 approved provider.

4048 2. These administrative services may include, but are not
4049 limited to, enrollment of eligible employees, collection of
4050 employer ~~and employee~~ contributions, disbursement of such
4051 contributions to approved providers in accordance with the
4052 allocation directions of participants ~~members~~; services relating
4053 to consolidated billing; individual and collective recordkeeping
4054 and accounting; asset purchase, control, and safekeeping; and
4055 direct disbursement of funds to and from the third-party
4056 administrator, the division, the ~~state~~ board, employers,
4057 participants ~~members~~, approved providers, and beneficiaries.
4058 This section does not prevent or prohibit a bundled provider
4059 from providing any administrative or customer service, including
4060 accounting and administration of individual participant ~~member~~
4061 benefits and contributions; individual participant ~~member~~
4062 recordkeeping; asset purchase, control, and safekeeping; direct
4063 execution of the participant's ~~member's~~ instructions as to asset
4064 and contribution allocation; calculation of daily net asset
4065 values; direct access to participant ~~member~~ account information;
4066 or periodic reporting to participants ~~members~~, at least
4067 quarterly, on account balances and transactions, if these
4068 services are authorized by the ~~state~~ board as part of the
4069 contract.

4070 3. ~~(b)1.~~ The state board shall select and contract with one
4071 or more organizations to provide educational services. With
4072 approval of the ~~state~~ board, the organizations may subcontract

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4073 with other organizations or individuals to provide components of
4074 the educational services. As a cost of administration, the ~~state~~
4075 board may compensate any such contractor for its services in
4076 accordance with the terms of the contract, as is deemed
4077 necessary or proper by the board. The education organization may
4078 not be an approved provider or be affiliated with an approved
4079 provider.

4080 4.2. Educational services shall be designed by the ~~state~~
4081 board and department to assist employers, eligible employees,
4082 participants ~~members~~, and beneficiaries in order to maintain
4083 compliance with United States Department of Labor regulations
4084 under s. 404(c) of the Employee Retirement Income Security Act
4085 of 1974 and to assist employees in their choice of ~~pension plan~~
4086 defined benefit or defined contribution ~~investment plan~~
4087 retirement alternatives. Educational services include, but are
4088 not limited to, disseminating educational materials; providing
4089 retirement planning education; explaining the differences
4090 between the defined benefit retirement ~~pension~~ plan and the
4091 defined contribution retirement ~~investment~~ plan; and offering
4092 financial planning guidance on matters such as investment
4093 diversification, investment risks, investment costs, and asset
4094 allocation. An approved provider may also provide educational
4095 information, including retirement planning and investment
4096 allocation information concerning its products and services.

4097 (c)1. In evaluating and selecting a third-party
4098 administrator, the ~~state~~ board shall establish criteria under
4099 which it shall consider ~~for evaluating~~ the relative capabilities
4100 and qualifications of each proposed administrator. In developing
4101 such criteria, the ~~state~~ board shall consider:

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4102 a. The administrator's demonstrated experience in providing
4103 administrative services to public or private sector retirement
4104 systems.

4105 b. The administrator's demonstrated experience in providing
4106 daily valued recordkeeping to defined contribution plans
4107 ~~programs~~.

4108 c. The administrator's ability and willingness to
4109 coordinate its activities with the Florida Retirement System
4110 employers, the ~~state~~ board, and the division, and to supply to
4111 such employers, the board, and the division the information and
4112 data they require, including, but not limited to, monthly
4113 management reports, quarterly participant ~~member~~ reports, and ad
4114 hoc reports requested by the department or ~~state~~ board.

4115 d. The cost-effectiveness and levels of the administrative
4116 services provided.

4117 e. The administrator's ability to interact with the
4118 participants ~~members~~, the employers, the ~~state~~ board, the
4119 division, and the providers; the means by which participants
4120 ~~members~~ may access account information, direct investment of
4121 contributions, make changes to their accounts, transfer moneys
4122 between available investment vehicles, and transfer moneys
4123 between investment products; and any fees that apply to such
4124 activities.

4125 f. Any other factor deemed necessary by the Trustees of the
4126 State Board of Administration.

4127 2. In evaluating and selecting an educational provider, the
4128 ~~state~~ board shall establish criteria under which it shall
4129 consider the relative capabilities and qualifications of each
4130 proposed educational provider. In developing such criteria, the

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4131 ~~state~~ board shall consider:

4132 a. Demonstrated experience in providing educational
4133 services to public or private sector retirement systems.

4134 b. Ability and willingness to coordinate its activities
4135 with the Florida Retirement System employers, the ~~state~~ board,
4136 and the division, and to supply to such employers, the board,
4137 and the division the information and data they require,
4138 including, but not limited to, reports on educational contacts.

4139 c. The cost-effectiveness and levels of the educational
4140 services provided.

4141 d. Ability to provide educational services via different
4142 media, including, but not limited to, the Internet, personal
4143 contact, seminars, brochures, and newsletters.

4144 e. Any other factor deemed necessary by the Trustees of the
4145 State Board of Administration.

4146 3. The establishment of the criteria shall be solely within
4147 the discretion of the ~~state~~ board.

4148 (d) The ~~state~~ board shall develop the form and content of
4149 any contracts to be offered under the Public Employee Optional
4150 Retirement Program investment plan. In developing its the
4151 contracts, the board must ~~shall~~ consider:

4152 1. The nature and extent of the rights and benefits to be
4153 afforded in relation to the required contributions ~~required~~
4154 under the program plan.

4155 2. The suitability of the rights and benefits to be
4156 afforded ~~provided~~ and the interests of employers in the
4157 recruitment and retention of eligible employees.

4158 (e)1. The ~~state~~ board may contract with any consultant for
4159 professional services, including legal, consulting, accounting,

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4160 and actuarial services, deemed necessary to implement and
4161 administer the optional program by the Trustees of the State
4162 Board of Administration investment plan. The ~~state~~ board may
4163 enter into a contract with one or more vendors to provide low-
4164 cost investment advice to participants ~~members~~, supplemental to
4165 education provided by the third-party administrator. All fees
4166 under any such contract shall be paid by those participants
4167 ~~members~~ who choose to use the services of the vendor.

4168 2. The department may contract with consultants for
4169 professional services, including legal, consulting, accounting,
4170 and actuarial services, deemed necessary to implement and
4171 administer the optional program investment plan in coordination
4172 with the defined benefit program of the Florida Retirement
4173 System pension plan. The department, in coordination with the
4174 ~~state~~ board, may enter into a contract with the third-party
4175 administrator in order to coordinate services common to the
4176 various programs within the Florida Retirement System.

4177 (f) The third-party administrator shall ~~may~~ not receive
4178 direct or indirect compensation from an approved provider,
4179 except as specifically provided for in the contract with the
4180 ~~state~~ board.

4181 (g) The state board shall receive and resolve participant
4182 ~~member~~ complaints against the program, the third-party
4183 administrator, or any program vendor or provider; shall resolve
4184 any conflict between the third-party administrator and an
4185 approved provider if such conflict threatens the implementation
4186 or administration of the program or the quality of services to
4187 employees; and may resolve any other conflicts. The third-party
4188 administrator shall retain all participant ~~member~~ records for at

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4189 least 5 years for use in resolving any participant member
4190 conflicts. The state board, the third-party administrator, or a
4191 provider is not required to produce documentation or an audio
4192 recording to justify action taken with regard to a participant
4193 ~~member~~ if the action occurred 5 or more years before the
4194 complaint is submitted to the state board. It is presumed that
4195 all action taken 5 or more years before the complaint is
4196 submitted was taken at the request of the participant member and
4197 with the participant's member's full knowledge and consent. To
4198 overcome this presumption, the participant member must present
4199 documentary evidence or an audio recording demonstrating
4200 otherwise.

4201 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

4202 (a) The ~~state~~ board shall develop policy and procedures for
4203 selecting, evaluating, and monitoring the performance of
4204 approved providers and investment products to which employees
4205 may direct retirement contributions under the program investment
4206 plan. In accordance with such policy and procedures, the ~~state~~
4207 board shall designate and contract for a number of investment
4208 products as determined by the board. The board shall also select
4209 one or more bundled providers, ~~each of whom~~ which may offer
4210 multiple investment options and related services when, if such
4211 an approach is determined by the board to afford provide value
4212 to the participants members otherwise not available through
4213 individual investment products. Each approved bundled provider
4214 may offer investment options that provide participants members
4215 with the opportunity to invest in each of the following asset
4216 classes, to be composed of individual options that represent
4217 either a single asset class or a combination thereof: money

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4218 markets, United States fixed income, United States equities, and
4219 foreign stock. The ~~state~~ board shall review and manage all
4220 educational materials, contract terms, fee schedules, and other
4221 aspects of the approved provider relationships to ensure that no
4222 provider is unduly favored or penalized by virtue of its status
4223 within the ~~investment~~ plan.

4224 (b) The ~~state~~ board shall consider investment options or
4225 products it considers appropriate to give participants ~~members~~
4226 the opportunity to accumulate retirement benefits, subject to
4227 the following:

4228 1. The Public Employee Optional Retirement Program
4229 ~~investment plan~~ must offer a diversified mix of low-cost
4230 investment products that span the risk-return spectrum and may
4231 include a guaranteed account as well as investment products,
4232 such as individually allocated guaranteed and variable
4233 annuities, which meet the requirements of this subsection and
4234 combine the ability to accumulate investment returns with the
4235 option of receiving lifetime income consistent with the long-
4236 term retirement security of a pension plan and similar to the
4237 lifetime-income benefit provided by the Florida Retirement
4238 System.

4239 2. Investment options or products offered by the group of
4240 approved providers may include mutual funds, group annuity
4241 contracts, individual retirement annuities, interests in trusts,
4242 collective trusts, separate accounts, and other such financial
4243 instruments, and may include products that give participants
4244 ~~members~~ the option of committing their contributions for an
4245 extended time period in an effort to obtain returns higher than
4246 those that could be obtained from investment products offering

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4247 full liquidity.

4248 3. The ~~state~~ board shall ~~may~~ not contract with any a
4249 provider that imposes a front-end, back-end, contingent, or
4250 deferred sales charge, or any other fee that limits or restricts
4251 the ability of participants ~~members~~ to select any investment
4252 product available in the optional program ~~investment plan~~. This
4253 prohibition does not apply to fees or charges that are imposed
4254 on withdrawals from products that give participants ~~members~~ the
4255 option of committing their contributions for an extended time
4256 period in an effort to obtain returns higher than those that
4257 could be obtained from investment products offering full
4258 liquidity, provided that ~~if~~ the product in question, net of all
4259 fees and charges, produces material benefits relative to other
4260 comparable products in the program ~~investment plan~~ offering full
4261 liquidity.

4262 4. Fees or charges for insurance features, such as
4263 mortality and expense-risk charges, must be reasonable relative
4264 to the benefits provided.

4265 (c) In evaluating and selecting approved providers and
4266 products, the ~~state~~ board shall establish criteria under which
4267 it shall consider ~~for evaluating~~ the relative capabilities and
4268 qualifications of each proposed provider company and product. In
4269 developing such criteria, the board shall consider the following
4270 to the extent such factors may be applied in connection with
4271 investment products, services, or providers:

4272 1. Experience in the United States providing retirement
4273 products and related financial services under defined
4274 contribution retirement plans ~~programs~~.

4275 2. Financial strength and stability which shall be as

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4276 evidenced by the highest ratings assigned by nationally
4277 recognized rating services when comparing proposed providers
4278 that are so rated.

4279 3. Intrastate and interstate portability of the product
4280 offered, including early withdrawal options.

4281 4. Compliance with the Internal Revenue Code.

4282 5. The cost-effectiveness of the product provided and the
4283 levels of service supporting the product relative to its
4284 benefits and its characteristics, including, without limitation,
4285 the level of risk borne by the provider.

4286 6. The provider company's ability and willingness to
4287 coordinate its activities with Florida Retirement System
4288 employers, the department, and the ~~state~~ board, and to supply to
4289 such ~~the~~ employers, the department, and the board ~~with~~ the
4290 information and data they require.

4291 7. The methods available to participants ~~members~~ to
4292 interact with the provider company; the means by which
4293 participants ~~members~~ may access account information, direct
4294 investment of contributions, make changes to their accounts,
4295 transfer moneys between available investment vehicles, and
4296 transfer moneys between provider companies; and any fees that
4297 apply to such activities.

4298 8. The provider company's policies with respect to the
4299 transfer of individual account balances, contributions, and
4300 earnings thereon, both internally among investment products
4301 offered by the provider company and externally between approved
4302 providers, as well as any fees, charges, reductions, or
4303 penalties that may be applied.

4304 9. An evaluation of specific investment products, taking

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4305 into account each product's experience in meeting its investment
4306 return objectives net of all related fees, expenses, and
4307 charges, including, but not limited to, investment management
4308 fees, loads, distribution and marketing fees, custody fees,
4309 recordkeeping fees, education fees, annuity expenses, and
4310 consulting fees.

4311 10. Organizational factors, including, but not limited to,
4312 financial solvency, organizational depth, and experience in
4313 providing institutional and retail investment services.

4314 (d) By March 1, 2010, the ~~state~~ board shall identify and
4315 offer at least one terror-free investment product that allocates
4316 its funds among securities not subject to divestiture as
4317 provided in s. 215.473 if the investment product is deemed by
4318 the ~~state~~ board to be consistent with prudent investor
4319 standards. No A person may ~~not~~ bring a civil, criminal, or
4320 administrative action against an approved provider; the state
4321 board; or any employee, officer, director, or trustee of such
4322 provider based upon the divestiture of any security or the
4323 offering of a terror-free investment product as specified in
4324 this paragraph.

4325 (e) As a condition of offering any ~~an~~ investment option or
4326 product in the optional retirement program ~~investment plan~~, the
4327 approved provider must agree to make the investment product or
4328 service available under the most beneficial terms offered to any
4329 other customer, subject to approval by the Trustees of the State
4330 Board of Administration.

4331 (f) The ~~state~~ board shall regularly review the performance
4332 of each approved provider and product and related organizational
4333 factors to ensure continued compliance with established

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4334 selection criteria and with board policy and procedures.
4335 Providers and products may be terminated subject to contract
4336 provisions. The ~~state~~ board shall adopt procedures to transfer
4337 account balances from terminated products or providers to other
4338 products or providers in the optional program investment plan.

4339 (g)1. An approved provider shall comply with all ~~applicable~~
4340 federal and state securities and insurance laws and regulations
4341 applicable to the provider, as well as ~~with~~ the applicable rules
4342 and guidelines of the National Association of Securities Dealers
4343 which govern the ethical marketing of investment products. In
4344 furtherance of this mandate, an approved provider must agree in
4345 its contract with the ~~state~~ board to establish and maintain a
4346 compliance education and monitoring system to supervise the
4347 activities of all personnel who directly communicate with
4348 individual participants ~~members~~ and recommend investment
4349 products, which system is consistent with rules of the National
4350 Association of Securities Dealers.

4351 2. Approved provider personnel who directly communicate
4352 with individual participants ~~members~~ and who recommend
4353 investment products shall make an independent and unbiased
4354 determination as to whether an investment product is suitable
4355 for a particular participant ~~member~~.

4356 3. The ~~state~~ board shall develop procedures to receive and
4357 resolve participant ~~member~~ complaints against a provider or
4358 approved provider personnel, and, when ~~if~~ appropriate, refer
4359 such complaints to the appropriate agency.

4360 4. Approved providers may not sell or in any way distribute
4361 any customer list or participant ~~member~~ identification
4362 information generated through their offering of products or

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4363 services through the optional retirement program investment
4364 ~~plan~~.

4365 (10) EDUCATION COMPONENT.—

4366 (a) The ~~state~~ board, in coordination with the department,
4367 shall provide for an education component for system members in a
4368 manner consistent with the provisions of this section. The
4369 education component must be available to eligible employees at
4370 least 90 days prior to the beginning date of the election period
4371 for the employees of the respective types of employers.

4372 (b) The education component must provide system members
4373 with impartial and balanced information about plan choices. The
4374 education component must involve multimedia formats. Program
4375 comparisons must, to the greatest extent possible, be based upon
4376 the retirement income that different retirement programs may
4377 provide to the participant member. The ~~state~~ board shall monitor
4378 the performance of the contract to ensure that the program is
4379 conducted in accordance with the contract, applicable law, and
4380 the rules of the ~~state~~ board.

4381 (c) The ~~state~~ board, in coordination with the department,
4382 shall provide for an initial and ongoing transfer education
4383 component to provide system members with information necessary
4384 to make informed plan choice decisions. The transfer education
4385 component must include, but is not limited to, information on:

4386 1. The amount of money available to a member to transfer to
4387 the defined contribution program.

4388 2. The features of and differences between the defined
4389 benefit program ~~pension plan~~ and the defined contribution
4390 program, both generally and specifically, as those differences
4391 may affect the member.

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4392 3. The expected benefit available if the member were to
4393 retire under each of the retirement programs, based on
4394 appropriate alternative sets of assumptions.

4395 4. The rate of return from investments in the defined
4396 contribution program and the period of time over which such rate
4397 of return must be achieved to equal or exceed the expected
4398 monthly benefit payable to the member under the defined benefit
4399 program ~~pension plan~~.

4400 5. The historical rates of return for the investment
4401 alternatives available in the defined contribution programs.

4402 6. The benefits and historical rates of return on
4403 investments available in a typical deferred compensation plan or
4404 a typical plan under s. 403(b) of the Internal Revenue Code for
4405 which the employee may be eligible.

4406 7. The program choices available to employees of the State
4407 University System and the comparative benefits of each available
4408 program, if applicable.

4409 8. Payout options available in each of the retirement
4410 programs.

4411 (d) An ongoing education and communication component must
4412 provide system members ~~eligible employees~~ with information
4413 necessary to make informed decisions about choices within their
4414 program of membership ~~retirement system~~ and in preparation for
4415 retirement. The component must include, but is not limited to,
4416 information concerning:

4417 1. Rights and conditions of membership.

4418 2. Benefit features within the program, options, and
4419 effects of certain decisions.

4420 3. Coordination of contributions and benefits with a

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4421 deferred compensation plan under s. 457 or a plan under s.
4422 403(b) of the Internal Revenue Code.

4423 4. Significant program changes.

4424 5. Contribution rates and program funding status.

4425 6. Planning for retirement.

4426 (e) Descriptive materials must be prepared under the
4427 assumption that the employee is an unsophisticated investor, and
4428 all materials used in the education component must be approved
4429 by the state board prior to dissemination.

4430 (f) The ~~state~~ board and the department shall also establish
4431 a communication component to provide program information to
4432 participating employers and the employers' personnel and payroll
4433 officers and to explain their respective responsibilities in
4434 conjunction with the retirement programs.

4435 (g) Funding for education of new employees may reflect
4436 administrative costs to the optional program ~~investment plan~~ and
4437 the defined benefit program ~~pension plan~~.

4438 (h) Pursuant to paragraph subsection (8) (a), all Florida
4439 Retirement System employers have an obligation to regularly
4440 communicate the existence of the two Florida Retirement System
4441 plans and the plan choice in the natural course of administering
4442 their personnel functions, using the educational materials
4443 supplied by the state board and the Department of Management
4444 Services.

4445 (11) PARTICIPANT ~~MEMBER~~ INFORMATION REQUIREMENTS.—The ~~state~~
4446 board shall ensure that each participant ~~member~~ is provided a
4447 quarterly statement that accounts for the contributions made on
4448 behalf of such participant ~~the member~~; the interest and
4449 investment earnings thereon; and any fees, penalties, or other

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4450 deductions that apply thereto. At a minimum, such statements
4451 must:

4452 (a) Indicate the participant's ~~member's~~ investment options.

4453 (b) State the market value of the account at the close of
4454 the current quarter and previous quarter.

4455 (c) Show account gains and losses for the period and
4456 changes in account accumulation unit values for the period
4457 quarter.

4458 (d) Itemize account contributions for the quarter.

4459 (e) Indicate any account changes due to adjustment of
4460 contribution levels, reallocation of contributions, balance
4461 transfers, or withdrawals.

4462 (f) Set forth any fees, charges, penalties, and deductions
4463 that apply to the account.

4464 (g) Indicate the amount of the account in which the
4465 participant ~~member~~ is fully vested and the amount of the account
4466 in which the participant ~~member~~ is not vested.

4467 (h) Indicate each investment product's performance relative
4468 to an appropriate market benchmark.

4469

4470 The third-party administrator shall provide quarterly and annual
4471 summary reports to the ~~state~~ board and any other reports
4472 requested by the department or the ~~state~~ board. In any
4473 solicitation or offer of coverage under an optional retirement
4474 program ~~the investment plan~~, a provider company shall be
4475 governed by the contract readability provisions of s. 627.4145,
4476 notwithstanding s. 627.4145(6)(c). In addition, all descriptive
4477 materials must be prepared under the assumption that the
4478 participant ~~member~~ is an unsophisticated investor. Provider

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4479 companies must maintain an internal system of quality assurance,
4480 have proven functional systems that are date-calculation
4481 compliant, and be subject to a due-diligence inquiry that proves
4482 their capacity and fitness to undertake service
4483 responsibilities.

4484 (12) ADVISORY COUNCIL TO PROVIDE ADVICE AND ASSISTANCE.—The
4485 Investment Advisory Council, ~~created pursuant to s. 215.444,~~
4486 shall assist the ~~state~~ board in implementing and administering
4487 the Public Employee Optional Retirement Program investment plan.
4488 The Investment Advisory Council, created pursuant to s. 215.444,
4489 shall review the ~~state~~ board's initial recommendations regarding
4490 the criteria to be used in selecting and evaluating approved
4491 providers and investment products. The council may provide
4492 comments on the recommendations to the ~~state~~ board within 45
4493 days after receiving the initial recommendations. The ~~state~~
4494 board shall make the final determination as to whether any
4495 investment provider or product, any contractor, or any and all
4496 contract provisions shall be ~~are~~ approved for the program
4497 ~~investment plan~~.

4498 (13) FEDERAL REQUIREMENTS.—

4499 (a) Provisions of this section shall be construed, and the
4500 Public Employee Optional Retirement Program investment plan
4501 shall be administered, so as to comply with the Internal Revenue
4502 Code, 26 U.S.C., and specifically with plan qualification
4503 requirements imposed on governmental plans under s. 401(a) of
4504 the Internal Revenue Code. The ~~state~~ board shall have the power
4505 and authority to ~~may~~ adopt rules reasonably necessary to
4506 establish or maintain the qualified status of the Optional
4507 Retirement Program investment plan under the Internal Revenue

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4508 Code and to implement and administer the Optional Retirement
 4509 Program investment plan in compliance with the Internal Revenue
 4510 Code and ~~as designated under~~ this part; provided however, that
 4511 the board shall not have the authority to adopt any rule which
 4512 makes a substantive change to the Optional Retirement Program
 4513 investment plan as designed by this part.

4514 (b) Any section or provision of this chapter which is
 4515 susceptible to more than one construction must ~~shall~~ be
 4516 interpreted in favor of the construction most likely to satisfy
 4517 requirements imposed by s. 401(a) of the Internal Revenue Code.

4518 (c) Contributions payable under this section for any
 4519 limitation year may not exceed the maximum amount allowable for
 4520 qualified defined contribution pension plans under applicable
 4521 provisions of the Internal Revenue Code. If an employee who has
 4522 elected to participate ~~is enrolled~~ in the Public Employee
 4523 Optional Retirement Program investment plan participates in any
 4524 other plan that is maintained by the participating employer,
 4525 benefits that accrue under the Public Employee Optional
 4526 Retirement Program investment plan shall be considered primary
 4527 for any aggregate limitation applicable under s. 415 of the
 4528 Internal Revenue Code.

4529 (14) INVESTMENT POLICY STATEMENT.—

4530 (a) Investment products and approved providers selected for
 4531 the Public Employee Optional Retirement Program shall ~~investment~~
 4532 ~~plan must~~ conform with the Public Employee Optional Retirement
 4533 Program Florida Retirement System Investment Plan Investment
 4534 Policy Statement, herein referred to as the "statement," as
 4535 developed and approved by the trustees of the State Board of of
 4536 Administration. The statement must include, among other items,

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4537 the investment objectives of the Public Employee Optional
4538 Retirement Program investment plan, manager selection and
4539 monitoring guidelines, and performance measurement criteria. As
4540 required from time to time, the executive director of the state
4541 board may present recommended changes in the statement to the
4542 board for approval.

4543 (b) Prior to presenting the statement, or any recommended
4544 changes thereto, to the state board, the executive director of
4545 the board shall present such statement or changes to the
4546 Investment Advisory Council for review. The council shall
4547 present the results of its review to the board prior to the
4548 board's final approval of the statement or changes in the
4549 statement.

4550 (15) STATEMENT OF FIDUCIARY STANDARDS AND
4551 RESPONSIBILITIES.—

4552 (a) Investment of optional defined contribution retirement
4553 plan assets shall be made for the sole interest and exclusive
4554 purpose of providing benefits to plan participants ~~members~~ and
4555 beneficiaries and defraying reasonable expenses of administering
4556 the plan. The program's assets are to ~~shall~~ be invested, on
4557 behalf of the program participants, ~~members~~ with the care,
4558 skill, and diligence that a prudent person acting in a like
4559 manner would undertake. The performance of the investment duties
4560 set forth in this paragraph shall comply with the fiduciary
4561 standards set forth in the Employee Retirement Income Security
4562 Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). In case of
4563 conflict with other provisions of law authorizing investments,
4564 the investment and fiduciary standards set forth in this
4565 subsection shall prevail.

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4566 (b) If a participant ~~member~~ or beneficiary of the Public
4567 Employee Optional Retirement Program investment plan exercises
4568 control over the assets in his or her account, as determined by
4569 reference to regulations of the United States Department of
4570 Labor under s. 404(c) of the Employee Retirement Income Security
4571 Act of 1974 and all applicable laws governing the operation of
4572 the program, no ~~a~~ program fiduciary shall be ~~is not~~ liable for
4573 any loss to a participant's ~~member's~~ or beneficiary's account
4574 which results from such participant's ~~the member's~~ or
4575 beneficiary's exercise of control.

4576 (c) Subparagraph (8) (b) ~~4.2.~~ and paragraph (15) (b)
4577 incorporate the federal law concept of participant control,
4578 established by regulations of the United States Department of
4579 Labor under s. 404(c) of the Employee Retirement Income Security
4580 Act of 1974 (ERISA). The purpose of this paragraph is to assist
4581 employers and the State Board of Administration in maintaining
4582 compliance with s. 404(c), while avoiding unnecessary costs and
4583 eroding participant ~~member~~ benefits under the Public Employee
4584 Optional Retirement Program investment plan. Pursuant to 29
4585 C.F.R. s. 2550.404c-1 (b) (2) (i) (B) (1) (viii), the State Board of
4586 Administration or its designated agents shall deliver to ~~members~~
4587 participants of the Public Employee Optional Retirement Program
4588 investment plan a copy of the prospectus most recently provided
4589 to the plan, and, pursuant to 29 C.F.R. s. 2550.404c-
4590 1 (b) (2) (i) (B) (2) (ii), shall provide such participants ~~members~~ an
4591 opportunity to obtain this information, except that:

4592 1. The requirement to deliver a prospectus shall be deemed
4593 to be satisfied by delivery of a fund profile ~~or summary profile~~
4594 that contains the information that would be included in a

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4595 summary prospectus as described by Rule 498 under the Securities
4596 Act of 1933, 17 C.F.R. s. 230.498. When ~~if~~ the transaction fees,
4597 expense information or other information provided by a mutual
4598 fund in the prospectus does not reflect terms negotiated by the
4599 State Board of Administration or its designated agents, the
4600 aforementioned requirement is deemed to be satisfied by delivery
4601 of a separate document described by Rule 498 substituting
4602 accurate information; and

4603 2. Delivery shall be deemed to have been effected if
4604 delivery is through electronic means and the following standards
4605 are satisfied:

4606 a. Electronically-delivered documents are prepared and
4607 provided consistent with style, format, and content requirements
4608 applicable to printed documents;

4609 b. Each participant member is provided timely and adequate
4610 notice of the documents that are to be delivered, and their
4611 significance thereof, and of the participant's member's right to
4612 obtain a paper copy of such documents free of charge;

4613 c. (I) Participants Members have adequate access to the
4614 electronic documents, at locations such as their worksites or
4615 public facilities, and have the ability to convert the documents
4616 to paper free of charge by the State Board of Administration,
4617 and the board or its designated agents take appropriate and
4618 reasonable measures to ensure that the system for furnishing
4619 electronic documents results in actual receipt, or-

4620 (II) Participants Members have provided consent to receive
4621 information in electronic format, which consent may be revoked;
4622 and

4623 d. The State Board of Administration, or its designated

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4624 agent, actually provides paper copies of the documents free of
4625 charge, upon request.

4626 (16) DISABILITY BENEFITS.—For any participant member of the
4627 optional retirement program investment plan who becomes totally
4628 and permanently disabled, benefits shall ~~must~~ be paid in
4629 accordance with the provisions of s. 121.591.

4630 (17) SOCIAL SECURITY COVERAGE.—Social security coverage
4631 shall be provided for all officers and employees who become
4632 participants members of the optional program investment plan.
4633 Any modification of the present agreement with the Social
4634 Security Administration, or referendum required under the Social
4635 Security Act, for the purpose of providing social security
4636 coverage for any member shall be requested by the state agency
4637 in compliance with the applicable provisions of the Social
4638 Security Act governing such coverage. However, retroactive
4639 social security coverage for service prior to December 1, 1970,
4640 with the employer shall ~~may~~ not be provided for any member who
4641 was not covered under the agreement as of November 30, 1970.

4642 (18) RETIREE HEALTH INSURANCE SUBSIDY.—All officers and
4643 employees who are participants members of the investment plan
4644 ~~are~~ optional program shall be eligible to receive the retiree
4645 health insurance subsidy, subject to the provisions of s.
4646 112.363.

4647 (19) PARTICIPANT MEMBER RECORDS.—Personal identifying
4648 information of a participant member in the Public Employee
4649 Optional Retirement Program investment plan contained in Florida
4650 Retirement System records held by the State Board of
4651 Administration or the Department of Management Services is
4652 exempt from s. 119.07(1) and s. 24(a), Art. I of the State

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4653 Constitution.

4654 (20) DESIGNATION OF BENEFICIARIES.—

4655 (a) Each participant member may, ~~by electronic means or~~ on
4656 a form provided for that purpose, signed and filed with the
4657 third-party administrator, designate a choice of one or more
4658 persons, named sequentially or jointly, as his or her
4659 beneficiary who shall receive ~~for receiving~~ the benefits, if
4660 any, which may be payable pursuant to this chapter in the event
4661 of the participant's member's death. If no beneficiary is named
4662 in this manner, or if no beneficiary designated by the
4663 participant member survives the participant member, the
4664 beneficiary shall be the spouse of the deceased, if living. If
4665 the participant's member's spouse is not alive at his or her ~~the~~
4666 ~~time of the member's~~ death, the beneficiary shall be the living
4667 children of the participant member. If no children survive, the
4668 beneficiary shall be the participant's member's father or
4669 mother, if living; otherwise, the beneficiary shall be the
4670 participant's member's estate. The beneficiary most recently
4671 designated by a participant on a form or letter filed with the
4672 third-party administrator member shall be the beneficiary
4673 entitled to any benefits payable at the time of the
4674 participant's member's death. Notwithstanding any other
4675 provision in this subsection to the contrary ~~However~~, for a
4676 participant member who dies prior to his or her effective date
4677 of retirement, the spouse at the time of death shall be the
4678 participant's member's beneficiary unless such participant the
4679 ~~member~~ designates a different beneficiary as provided in this
4680 subsection subsequent to the participant's member's most recent
4681 marriage.

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4682 (b) If a participant member designates a primary
4683 beneficiary other than the participant's member's spouse, the
4684 participant's member's spouse must sign the beneficiary
4685 designation form to acknowledge the designation. This
4686 requirement does not apply to the designation of one or more
4687 contingent beneficiaries to receive benefits remaining upon the
4688 death of the primary beneficiary or beneficiaries.

4689 (c) Notwithstanding the participant's member's designation
4690 of benefits to be paid through a trust to a beneficiary that is
4691 a natural person, and notwithstanding the provisions of the
4692 trust, benefits shall ~~must~~ be paid directly to the beneficiary
4693 if the person is no longer a minor or an incapacitated person as
4694 defined in s. 744.102.

4695 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT OPTION
4696 PROGRAM PARTICIPANTS ~~MEMBERS~~.—Notwithstanding any ~~other~~
4697 provision of law to the contrary, participants ~~members~~ in the
4698 Deferred Retirement Option Program offered under part I may,
4699 after conclusion of their participation in the program, elect to
4700 roll over or authorize a direct trustee-to-trustee transfer to
4701 an account under the Public Employee Optional Retirement Program
4702 ~~investment plan~~ of their Deferred Retirement Option Program
4703 proceeds distributed as provided under s. 121.091(13)(c)5. The
4704 transaction must constitute an "eligible rollover distribution"
4705 within the meaning of s. 402(c)(4) of the Internal Revenue Code.

4706 (a) The Public Employee Optional Retirement Program
4707 ~~investment plan~~ may accept such amounts for deposit into
4708 participant member accounts as provided in paragraph (5) ~~(c)(e)~~.

4709 (b) The affected participant member shall direct the
4710 investment of his or her investment account; however, unless he

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4711 or she becomes a renewed member of the Florida Retirement System
4712 under s. 121.122 and elects to participate in the Public
4713 Employee Optional Retirement Program investment plan, employer
4714 ~~no~~ contributions may not be made to the participant's member's
4715 account as provided under paragraph (5) (a).

4716 (c) The state board or the department is not responsible
4717 for locating those persons who may be eligible to participate in
4718 the Public Employee Optional Retirement Program investment plan
4719 under this subsection.

4720 (22) CREDIT FOR MILITARY SERVICE.—Creditable service of any
4721 member of the Public Employee Optional Retirement Program shall
4722 include investment plan includes military service in the Armed
4723 Forces of the United States as provided in the conditions
4724 outlined in s. 121.111(1).

4725 Section 27. Section 121.4502, Florida Statutes, is amended
4726 to read:

4727 121.4502 Public Employee Optional Retirement Program
4728 ~~Florida Retirement System Investment Plan Trust Fund.~~—

4729 (1) The Public Employee Optional Retirement Program Florida
4730 ~~Retirement System Investment Plan~~ Trust Fund is created to hold
4731 the assets of the Public Employee Optional Retirement Program
4732 ~~Florida Retirement System Investment Plan~~ in trust for the
4733 exclusive benefit of such program's participants the plan's
4734 ~~members~~ and beneficiaries, and for the payment of reasonable
4735 administrative expenses of the program plan, in accordance with
4736 s. 401 of the Internal Revenue Code, and shall be administered
4737 by the State Board of Administration as trustee. Funds shall be
4738 credited to the trust fund as provided in this part, to be used
4739 for the purposes of this part. The trust fund is exempt from the

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4740 service charges imposed by s. 215.20.

4741 (2) The Public Employee Optional Retirement Program ~~Florida~~
4742 ~~Retirement System Investment Plan~~ Trust Fund is a retirement
4743 trust fund of the Florida Retirement System that accounts for
4744 retirement plan assets held by the state in a trustee capacity
4745 as a fiduciary for individual participants in the Public
4746 Employee Optional Retirement Program ~~Florida Retirement System~~
4747 ~~Investment Plan~~ and, pursuant to s. 19(f), Art. III of the State
4748 Constitution, is not subject to termination.

4749 (3) A forfeiture account shall be created within the Public
4750 Employee Optional Retirement Program ~~Florida Retirement System~~
4751 ~~Investment Plan~~ Trust Fund to hold the assets derived from the
4752 forfeiture of benefits by participants. Pursuant to a private
4753 letter ruling from the Internal Revenue Service, the forfeiture
4754 account may be used only for paying expenses of the Public
4755 Employee Optional Retirement Program ~~Florida Retirement System~~
4756 ~~Investment Plan~~ and reducing future employer contributions to
4757 the program. Consistent with Rulings 80-155 and 74-340 of the
4758 Internal Revenue Service, unallocated reserves within the
4759 forfeiture account must be used as quickly and as prudently as
4760 possible considering the state board's fiduciary duty. Expected
4761 withdrawals from the account must endeavor to reduce the account
4762 to zero each fiscal year.

4763 Section 28. Subsections (1) and (3) of section 121.4503,
4764 Florida Statutes, are amended to read:

4765 121.4503 Florida Retirement System Contributions Clearing
4766 Trust Fund.—

4767 (1) The Florida Retirement System Contributions Clearing
4768 Trust Fund is created as a clearing fund for disbursing employer

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4769 ~~and employee~~ contributions to the component plans of the Florida
4770 Retirement System and shall be administered by the Department of
4771 Management Services. Funds shall be credited to the trust fund
4772 as provided in this chapter and shall be held in trust for the
4773 contributing ~~employees and~~ employers until such time as the
4774 assets are transferred by the department to the Florida
4775 Retirement System Trust Fund, the Public Employee Optional
4776 Retirement Program Florida Retirement System Investment Plan
4777 Trust Fund, or other trust funds as authorized by law, to be
4778 used for the purposes of this chapter. The trust fund is exempt
4779 from the service charges imposed by s. 215.20.

4780 (3) The Department of Management Services may adopt rules
4781 governing the receipt and disbursement of amounts received by
4782 the Florida Retirement System Contributions Clearing Trust Fund
4783 from employers ~~and employees~~ contributing to the component plans
4784 of the Florida Retirement System.

4785 Section 29. Section 121.571, Florida Statutes, is amended
4786 to read:

4787 121.571 Contributions.—Contributions to the Public Employee
4788 Optional Retirement Program Florida Retirement System Investment
4789 Plan shall be made as follows:

4790 (1) NONCONTRIBUTORY CONTRIBUTORY PLAN.—Each employer ~~and~~
4791 ~~employee~~ shall accomplish the ~~submit~~ contributions ~~as~~ required
4792 by s. 121.71 by a procedure in which no employee's gross salary
4793 shall be reduced.

4794 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund the
4795 retirement and disability benefits provided under this part
4796 shall ~~must~~ be based on the uniform contribution rates
4797 established by s. 121.71 and on the membership class or subclass

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4798 of the participant member. Such contributions shall ~~must~~ be
 4799 allocated as provided in ss. 121.72 and 121.73.

4800 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR
 4801 RETIREE HEALTH INSURANCE SUBSIDY.—Contributions required under
 4802 this section shall be s. 121.71 are in addition to employer and
 4803 member contributions required for social security and the
 4804 Retiree Health Insurance Subsidy Trust Fund as provided in
 4805 ~~required under~~ ss. 112.363, 121.052, 121.055, and 121.071, as
 4806 appropriate.

4807 Section 30. Section 121.591, Florida Statutes, is amended
 4808 to read:

4809 121.591 ~~Payment of Benefits~~ payable under the Public
 4810 Employee Optional Retirement Program of the Florida Retirement
 4811 System.—Benefits may not be paid under this section ~~the Florida~~
 4812 ~~Retirement System Investment Plan~~ unless the member has
 4813 terminated employment as provided in s. 121.021(39)(a) or is
 4814 deceased and a proper application has been filed in the manner
 4815 ~~as prescribed by the state board or the department. Before~~
 4816 ~~termination of employment, benefits, including employee~~
 4817 ~~contributions, are not payable under the investment plan for~~
 4818 ~~employee hardships, unforeseeable emergencies, loans, medical~~
 4819 ~~expenses, educational expenses, purchase of a principal~~
 4820 ~~residence, payments necessary to prevent eviction or foreclosure~~
 4821 ~~on an employee's principal residence, or any other reason prior~~
 4822 ~~to termination from all employment relationships with~~
 4823 ~~participating employers~~. The state board or department, as
 4824 appropriate, may cancel an application for retirement benefits
 4825 when ~~if~~ the member or beneficiary fails to timely provide the
 4826 information and documents required by this chapter and the rules

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4827 of the state board and department. In accordance with their
4828 respective responsibilities as provided herein, the State Board
4829 of Administration and the Department of Management Services
4830 shall adopt rules establishing procedures for application for
4831 retirement benefits and for the cancellation of such application
4832 when ~~if~~ the required information or documents are not received.
4833 The State Board of Administration and the Department of
4834 Management Services, as appropriate, are authorized to cash out
4835 a de minimis account of a participant ~~member~~ who has been
4836 terminated from Florida Retirement System covered employment for
4837 a minimum of 6 calendar months. A de minimis account is an
4838 account containing employer ~~and employee~~ contributions and
4839 accumulated earnings of not more than \$5,000 made under the
4840 provisions of this chapter. Such cash-out must either be a
4841 complete lump-sum liquidation of the account balance, subject to
4842 the provisions of the Internal Revenue Code, or a lump-sum
4843 direct rollover distribution paid directly to the custodian of
4844 an eligible retirement plan, as defined by the Internal Revenue
4845 Code, on behalf of the participant ~~member~~. ~~Any nonvested~~
4846 ~~accumulations and associated service credit, including amounts~~
4847 ~~transferred to the suspense account of the Florida Retirement~~
4848 ~~System Investment Plan Trust Fund authorized under s.~~
4849 ~~121.4501(6), shall be forfeited upon payment of any vested~~
4850 ~~benefit to a member or beneficiary, except for de minimis~~
4851 ~~distributions or minimum required distributions as provided~~
4852 ~~under this section.~~ If any financial instrument issued for the
4853 payment of retirement benefits under this section is not
4854 presented for payment within 180 days after the last day of the
4855 month in which it was originally issued, the third-party

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4856 administrator or other duly authorized agent of the State Board
4857 of Administration shall cancel the instrument and credit the
4858 amount of the instrument to the suspense account of the Public
4859 Employee Optional Retirement Program ~~Florida Retirement System~~
4860 ~~Investment Plan~~ Trust Fund authorized under s. 121.4501(6). Any
4861 such amounts transferred to the suspense account are payable
4862 upon a proper application, not to include earnings thereon, as
4863 provided in this section, within 10 years after the last day of
4864 the month in which the instrument was originally issued, after
4865 which time such amounts and any earnings thereon ~~attributable to~~
4866 ~~employer contributions~~ shall be forfeited. Any such forfeited
4867 amounts are assets of the Public Employee Optional Retirement
4868 Program Trust Fund and are not subject to the provisions of
4869 chapter 717.

4870 (1) NORMAL BENEFITS.—Under the Public Employee Optional
4871 Retirement Program ~~investment plan~~:

4872 (a) Benefits in the form of vested accumulations as
4873 described in s. 121.4501(6) are payable under this subsection in
4874 accordance with the following terms and conditions:

4875 1. To the extent vested, benefits are payable only to a
4876 participant member, ~~an alternate payee of a qualified domestic~~
4877 ~~relations order, or a beneficiary.~~

4878 2. Benefits shall be paid by the third-party administrator
4879 or designated approved providers in accordance with the law, the
4880 contracts, and any applicable board rule or policy.

4881 3. To receive benefits, the participant member must be
4882 terminated from all employment with all Florida Retirement
4883 System employers, as provided in s. 121.021(39).

4884 4. Benefit payments may not be made until the participant

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4885 ~~member~~ has been terminated for 3 calendar months, except that
4886 the ~~state~~ board may authorize by rule for the distribution of up
4887 to 10 percent of the participant's ~~member's~~ account after being
4888 terminated for 1 calendar month if the participant ~~member~~ has
4889 reached the normal retirement date as defined in s. 121.021 of
4890 the defined benefit plan.

4891 5. If a member or former member of the Florida Retirement
4892 System receives an invalid distribution from the Public Employee
4893 Optional Retirement Program Trust Fund, such person must ~~either~~
4894 repay the full invalid distribution to the trust fund ~~amount~~
4895 within 90 days after receipt of final notification by the state
4896 board or the third-party administrator that the distribution was
4897 ~~invalid, or, in lieu of repayment, the member must terminate~~
4898 ~~employment from all participating employers.~~ If such person
4899 fails to repay the full invalid distribution within 90 days
4900 after receipt of final notification, the person may be deemed
4901 retired from the optional retirement program investment plan by
4902 the state board, as provided pursuant to s. 121.4501(2)(k), and
4903 is subject to s. 121.122. If such person is deemed retired by
4904 the state board, any joint and several liability set out in s.
4905 121.091(9)(d)2. becomes null and is void, and the state board,
4906 the department, or the employing agency is not liable for gains
4907 on payroll contributions that have not been deposited to the
4908 person's account in the retirement program investment plan,
4909 pending resolution of the invalid distribution. The member or
4910 former member who has been deemed retired or who has been
4911 determined by the ~~state~~ board to have taken an invalid
4912 distribution may appeal the agency decision through the
4913 complaint process as provided under s. 121.4501(9)(g)3. As used

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4914 in this subparagraph, the term "invalid distribution" means any
 4915 distribution from an account in the optional retirement program
 4916 ~~investment plan~~ which is taken in violation of this section, s.
 4917 121.091(9), or s. 121.4501.

4918 (b) If a participant member elects to receive his or her
 4919 benefits upon termination of employment as defined in s.
 4920 121.021, the participant member must submit a written
 4921 application or an application by electronic means to the third-
 4922 party administrator indicating his or her preferred distribution
 4923 date and selecting an authorized method of distribution as
 4924 provided in paragraph (c). The participant member may defer
 4925 receipt of benefits until he or she chooses to make such
 4926 application, subject to federal requirements.

4927 (c) Upon receipt by the third-party administrator of a
 4928 properly executed application for distribution of benefits, the
 4929 total accumulated benefit shall be ~~is~~ payable to the participant
 4930 ~~member pro rata across all Florida Retirement System benefit~~
 4931 ~~sources~~ as:

4932 1. A lump-sum ~~or partial~~ distribution to the participant
 4933 ~~member~~;

4934 2. A lump-sum direct rollover distribution whereby all
 4935 accrued benefits, plus interest and investment earnings, are
 4936 paid from the participant's ~~member's~~ account directly to the
 4937 custodian of an eligible retirement plan, as defined in s.
 4938 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
 4939 participant member; or

4940 3. Periodic distributions, as authorized by the state
 4941 board.

4942 ~~(d) The distribution payment method selected by the member~~

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4943 ~~or beneficiary, and the retirement of the member or beneficiary,~~
4944 ~~is final and irrevocable at the time a benefit distribution~~
4945 ~~payment is cashed, deposited, or transferred to another~~
4946 ~~financial institution. Any additional service that remains~~
4947 ~~unclaimed at retirement may not be claimed or purchased, and the~~
4948 ~~type of retirement may not be changed, except that if a member~~
4949 ~~recovers from a disability, the member may subsequently request~~
4950 ~~benefits under subsection (2).~~

4951 ~~(c) A member may not receive a distribution of employee~~
4952 ~~contributions if a pending qualified domestic relations order is~~
4953 ~~filed against the member's investment plan account.~~

4954 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided under
4955 this subsection are payable in lieu of the benefits which ~~that~~
4956 would otherwise be payable under the provisions of subsection
4957 (1). Such benefits shall ~~must~~ be funded entirely from employer
4958 contributions made under s. 121.571, transferred participant
4959 ~~employee contributions~~ and funds accumulated pursuant to
4960 paragraph (a), and interest and earnings thereon. Pursuant
4961 thereto:

4962 (a) *Transfer of funds.*—To qualify to receive monthly
4963 disability benefits under this subsection:

4964 1. All moneys accumulated in the participant's Public
4965 Employee Optional Retirement Program accounts ~~member's account~~,
4966 including vested and nonvested accumulations as described in s.
4967 121.4501(6), shall ~~must~~ be transferred from such individual
4968 accounts to the Division of Retirement for deposit in the
4969 disability account of the Florida Retirement System Trust Fund.
4970 Such moneys shall ~~must~~ be separately accounted for ~~separately~~.
4971 Earnings shall ~~must~~ be credited on an annual basis for amounts

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4972 held in the disability accounts of the Florida Retirement System
4973 Trust Fund based on actual earnings of the Florida Retirement
4974 System Trust Fund.

4975 2. If the participant member has retained retirement credit
4976 he or she had earned under the defined benefit program of the
4977 Florida Retirement System pension plan as provided in s.
4978 121.4501(3) (b), a sum representing the actuarial present value
4979 of such credit within the Florida Retirement System Trust Fund
4980 shall be reassigned by the Division of Retirement from the
4981 defined benefit program pension plan to the disability program
4982 as implemented under this subsection and shall be deposited in
4983 the disability account of the Florida Retirement System trust
4984 fund. Such moneys shall ~~must~~ be separately accounted for
4985 separately.

4986 (b) *Disability retirement; entitlement.*—

4987 1. A participant member of the Public Employee Optional
4988 Retirement Program investment plan who becomes totally and
4989 permanently disabled, as defined in s. 121.091(4) (b) paragraph
4990 ~~(d)~~, after completing 8 years of creditable service, or a
4991 participant member who becomes totally and permanently disabled
4992 in the line of duty regardless of his or her length of service,
4993 shall be is entitled to a monthly disability benefit as provided
4994 herein.

4995 2. In order for service to apply toward the 8 years of
4996 ~~creditable~~ service required to vest for regular disability
4997 benefits, or toward the creditable service used in calculating a
4998 service-based benefit as provided for under paragraph (g), the
4999 service must be creditable service as described below:

5000 a. The participant's member's period of service under the

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5001 Public Employee Optional Retirement Program will investment plan
5002 ~~shall~~ be considered creditable service, except as provided in
5003 subparagraph d.

5004 b. If the participant member has elected to retain credit
5005 for his or her service under the defined benefit program of the
5006 Florida Retirement System pension plan as provided under s.
5007 121.4501(3) (b), all such service will ~~shall~~ be considered
5008 creditable service.

5009 c. If the participant has elected member elects to transfer
5010 to his or her participant member accounts a sum representing the
5011 present value of his or her retirement credit under the defined
5012 benefit program pension plan as provided under s.
5013 121.4501(3) (c), the period of service under the defined benefit
5014 program pension plan represented in the present value amounts
5015 transferred will ~~shall~~ be considered creditable service for
5016 purposes of vesting for disability benefits, except as provided
5017 in subparagraph d.

5018 d. Whenever a participant ~~If a member~~ has terminated
5019 employment and has taken distribution of his or her funds as
5020 provided in subsection (1), all creditable service represented
5021 by such distributed funds is forfeited for purposes of this
5022 subsection.

5023 (c) *Disability retirement effective date.*—The effective
5024 retirement date for a participant member who applies and is
5025 approved for disability retirement shall be established as
5026 provided under s. 121.091(4) (a)2. and 3.

5027 (d) *Total and permanent disability.*—A participant member
5028 shall be considered totally and permanently disabled if, in the
5029 opinion of the division, he or she is prevented, by reason of a

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5030 medically determinable physical or mental impairment, from
5031 rendering useful and efficient service as an officer or
5032 employee.

5033 (e) *Proof of disability.*—The division, before approving
5034 payment of any disability retirement benefit, ~~the division~~ shall
5035 require proof that the participant member is totally and
5036 permanently disabled in the same manner as provided for members
5037 of the defined benefit program of the Florida Retirement System
5038 under s. 121.091(4)(c).

5039 (f) *Disability retirement benefit.*—Upon the disability
5040 retirement of a participant member under this subsection, the
5041 participant member shall receive a monthly benefit that shall
5042 begin to accrue ~~begins accruing~~ on the first day of the month of
5043 disability retirement, as approved by the division, and shall be
5044 ~~is~~ payable on the last day of that month and each month
5045 thereafter during his or her lifetime and continued disability.
5046 All disability benefits payable to such member shall ~~must~~ be
5047 paid out of the disability account of the Florida Retirement
5048 System Trust Fund established under this subsection.

5049 (g) *Computation of disability retirement benefit.*—The
5050 amount of each monthly payment shall ~~must~~ be calculated in the
5051 same manner as provided for members of the defined benefit
5052 program of the Florida Retirement System under s. 121.091(4)(f).
5053 For such purpose, Creditable service under both the defined
5054 benefit program ~~pension plan~~ and the Public Employee Optional
5055 Retirement Program of the Florida Retirement System ~~investment~~
5056 ~~plan~~ shall be applicable as provided under paragraph (b).

5057 (h) *Reapplication.*—A participant member whose initial
5058 application for disability retirement has been ~~is~~ denied may

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5059 reapply for disability benefits in the same manner, and under
5060 the same conditions, as provided for members of the defined
5061 benefit program of the Florida Retirement System under ~~in~~ s.
5062 121.091(4)(g).

5063 (i) *Membership.*—Upon approval of an ~~a member's~~ application
5064 for disability benefits under this subsection, the applicant
5065 ~~member~~ shall be transferred to the defined benefit program of
5066 the Florida Retirement System pension plan, effective upon his
5067 or her disability retirement effective date.

5068 (j) *Option to cancel.*—Any participant ~~A member~~ whose
5069 application for disability benefits is approved may cancel ~~the~~
5070 his or her application for disability benefits, provided that ~~if~~
5071 the cancellation request is received by the division before a
5072 disability retirement warrant has been deposited, cashed, or
5073 received by direct deposit. Upon such cancellation:

5074 1. The participant's ~~member's~~ transfer to the defined
5075 benefit program ~~pension plan~~ under paragraph (i) shall be
5076 nullified;

5077 2. The participant ~~member~~ shall be retroactively reinstated
5078 in the Public Employee Optional Retirement Program ~~investment~~
5079 ~~plan~~ without hiatus;

5080 3. All funds transferred to the Florida Retirement System
5081 Trust Fund under paragraph (a) shall ~~must~~ be returned to the
5082 participant ~~member~~ accounts from which such ~~the~~ funds were
5083 drawn; and

5084 4. The participant ~~member~~ may elect to receive the benefit
5085 payable under the provisions of subsection (1) in lieu of
5086 disability benefits as provided under this subsection.

5087 (k) *Recovery from disability.*—

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5088 1. The division may require periodic reexaminations at the
5089 expense of the disability program account of the Florida
5090 Retirement System Trust Fund. Except as otherwise provided in
5091 subparagraph 2., the requirements, procedures, and restrictions
5092 relating to the conduct and review of such reexaminations,
5093 discontinuation or termination of benefits, reentry into
5094 employment, disability retirement after reentry into covered
5095 employment, and all other matters relating to recovery from
5096 disability shall be the same as are set forth ~~provided~~ under s.
5097 121.091(4)(h).

5098 2. Upon recovery from disability, any ~~the~~ recipient of
5099 disability retirement benefits under this subsection shall be a
5100 compulsory member of the Public Employee Optional Retirement
5101 Program of the Florida Retirement System ~~investment plan~~. The
5102 net difference between the recipient's original account balance
5103 transferred to the Florida Retirement System Trust Fund,
5104 including earnings, under paragraph (a) and total disability
5105 benefits paid to such recipient, if any, shall be determined as
5106 provided in sub-subparagraph a.

5107 a. An amount equal to the total benefits paid shall be
5108 subtracted from that portion of the transferred account balance
5109 consisting of vested accumulations as described under s.
5110 121.4501(6), if any, and an amount equal to the remainder of
5111 benefit amounts paid, if any, shall then be subtracted from any
5112 remaining portion consisting of nonvested accumulations as
5113 described under s. 121.4501(6).

5114 b. Amounts subtracted under sub-subparagraph a. shall ~~must~~
5115 be retained within the disability account of the Florida
5116 Retirement System Trust Fund. Any remaining account balance

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5117 shall be transferred to the third-party administrator for
5118 disposition as provided under sub-subparagraph c. or sub-
5119 subparagraph d., as appropriate.

5120 c. If the recipient returns to covered employment,
5121 transferred amounts shall ~~must~~ be deposited in individual
5122 accounts under the Public Employee Optional Retirement Program
5123 ~~investment plan~~, as directed by the participant member. Vested
5124 and nonvested amounts shall be separately accounted for
5125 ~~separately~~ as provided in s. 121.4501(6).

5126 d. If the recipient fails to return to covered employment
5127 upon recovery from disability:

5128 (I) Any remaining vested amount shall ~~must~~ be deposited in
5129 individual accounts under the Public Employee Optional
5130 Retirement Program investment plan, as directed by the
5131 participant member, and shall be is payable as provided in
5132 subsection (1).

5133 (II) Any remaining nonvested amount shall ~~must~~ be held in a
5134 suspense account and shall be is forfeitable after 5 years as
5135 provided in s. 121.4501(6).

5136 3. If present value was reassigned from the defined benefit
5137 program pension plan to the disability program of the Florida
5138 Retirement System as provided under subparagraph (a)2., the full
5139 present value amount shall ~~must~~ be returned to the defined
5140 benefit account within the Florida Retirement System Trust Fund
5141 and the affected individual's member's associated retirement
5142 credit under the defined benefit program shall pension plan must
5143 be reinstated in full. Any benefit based upon such credit shall
5144 ~~must~~ be calculated as provided in s. 121.091(4)(h)1.

5145 (1) *Nonadmissible causes of disability.*—A participant shall

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5146 ~~member is~~ not be entitled to receive a disability retirement
5147 benefit if the disability results from any injury or disease
5148 sustained or inflicted as described in s. 121.091(4) (i).

5149 (m) *Disability retirement of justice or judge by order of*
5150 *Supreme Court.*—

5151 1. If a participant ~~member~~ is a justice of the Supreme
5152 Court, judge of a district court of appeal, circuit judge, or
5153 judge of a county court who has served for 6 years or more ~~the~~
5154 ~~years equal to, or greater than, the vesting requirement in s.~~
5155 ~~121.021(45)~~ as an elected constitutional judicial officer,
5156 including service as a judicial officer in any court abolished
5157 pursuant to Art. V of the State Constitution, and who is retired
5158 for disability by order of the Supreme Court upon recommendation
5159 of the Judicial Qualifications Commission pursuant to the
5160 provisions of s. 12, Art. V of the State Constitution, the
5161 participant's ~~member's~~ Option 1 monthly disability benefit
5162 amount as provided in s. 121.091(6) (a)1. shall be two-thirds of
5163 his or her monthly compensation as of the participant's ~~member's~~
5164 disability retirement date. Such a participant ~~The member~~ may
5165 alternatively elect to receive an actuarially adjusted
5166 disability retirement benefit under any other option as provided
5167 in s. 121.091(6) (a) or to receive the normal benefit payable
5168 under the Public Employee Optional Retirement Program as set
5169 forth in subsection (1).

5170 2. If any justice or judge who is a participant ~~member~~ of
5171 the Public Employee Optional Retirement Program of the Florida
5172 Retirement System investment plan is retired for disability by
5173 order of the Supreme Court upon recommendation of the Judicial
5174 Qualifications Commission pursuant to the provisions of s. 12,

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5175 Art. V of the State Constitution and elects to receive a monthly
5176 disability benefit under the provisions of this paragraph:

5177 a. Any present value amount that was transferred to his or
5178 her program investment plan account and all employer ~~and~~
5179 ~~employee~~ contributions made to such account on his or her
5180 behalf, plus interest and earnings thereon, shall ~~must~~ be
5181 transferred to and deposited in the disability account of the
5182 Florida Retirement System Trust Fund; and

5183 b. The monthly ~~disability~~ benefits payable under this
5184 paragraph for any affected justice or judge retired from the
5185 Florida Retirement System pursuant to Art. V of the State
5186 Constitution shall be paid from the disability account of the
5187 Florida Retirement System Trust Fund.

5188 (n) *Death of retiree or beneficiary.*—Upon the death of a
5189 disabled retiree or beneficiary thereof ~~of the retiree~~ who is
5190 receiving monthly ~~disability~~ benefits under this subsection, the
5191 monthly benefits shall be paid through the last day of the month
5192 of death and shall terminate, or be adjusted, if applicable, as
5193 of that date in accordance with the optional form of benefit
5194 selected at the time of retirement. The Department of Management
5195 Services may adopt rules necessary to administer this paragraph.

5196 (3) DEATH BENEFITS.—Under the Public Employee Optional
5197 Retirement Program ~~Florida Retirement System Investment Plan~~:

5198 (a) Survivor benefits shall be ~~are~~ payable in accordance
5199 with the following terms and conditions:

5200 1. To the extent vested, benefits shall be ~~are~~ payable only
5201 to a participant's ~~member's~~ beneficiary or beneficiaries as
5202 designated by the participant ~~member~~ as provided in s.
5203 121.4501(20).

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5204 2. Benefits shall be paid by the third-party administrator
5205 or designated approved providers in accordance with the law, the
5206 contracts, and any applicable ~~state~~ board rule or policy.

5207 3. To receive benefits under this subsection, the
5208 participant ~~member~~ must be deceased.

5209 (b) In the event of a participant's ~~member's~~ death, all
5210 vested accumulations as described in s. 121.4501(6), less
5211 withholding taxes remitted to the Internal Revenue Service,
5212 shall be distributed, as provided in paragraph (c) or as
5213 described in s. 121.4501(20), as if the participant ~~member~~
5214 retired on the date of death. No other death benefits are shall
5215 be available for survivors of participants under the Public
5216 Employee Optional Retirement Program ~~members~~, except for such
5217 benefits, or coverage for such benefits, as are otherwise
5218 provided by law or are separately afforded ~~provided~~ by the
5219 employer, at the employer's discretion.

5220 (c) Upon receipt by the third-party administrator of a
5221 properly executed application for distribution of benefits, the
5222 total accumulated benefit shall be ~~is~~ payable by the third-party
5223 administrator to the participant's ~~member's~~ surviving
5224 beneficiary or beneficiaries, as:

5225 1. A lump-sum distribution payable to the beneficiary or
5226 beneficiaries, or to the deceased participant's ~~member's~~ estate;

5227 2. An eligible rollover distribution, ~~if permitted~~, on
5228 behalf of the surviving spouse of a deceased participant ~~member~~,
5229 whereby all accrued benefits, plus interest and investment
5230 earnings, are paid from the deceased participant's ~~member's~~
5231 account directly to the custodian of an eligible retirement
5232 plan, as described in s. 402(c)(8)(B) of the Internal Revenue

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5233 Code, on behalf of the surviving spouse; or

5234 3. A partial lump-sum payment whereby a portion of the
 5235 accrued benefit is paid to the deceased participant's ~~member's~~
 5236 surviving spouse or other designated beneficiaries, less
 5237 withholding taxes remitted to the Internal Revenue Service, and
 5238 the remaining amount is transferred directly to the custodian of
 5239 an eligible retirement plan, ~~if permitted,~~ as described in s.
 5240 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
 5241 surviving spouse. The proportions must be specified by the
 5242 participant ~~member~~ or the surviving beneficiary.

5243
 5244 This paragraph does not abrogate other applicable provisions of
 5245 state or federal law providing for payment of death benefits.

5246 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to
 5247 any person under the Public Employee Optional Retirement Program
 5248 ~~Florida Retirement System Investment Plan~~, and any contributions
 5249 accumulated under such program ~~the plan~~, are not subject to
 5250 assignment, execution, attachment, or any legal process, except
 5251 for qualified domestic relations orders by a court of competent
 5252 jurisdiction, income deduction orders as provided in s. 61.1301,
 5253 and federal income tax levies.

5254 Section 31. Section 121.5911, Florida Statutes, is amended
 5255 to read:

5256 121.5911 Disability retirement program; qualified status;
 5257 rulemaking authority.—It is the intent of the Legislature that
 5258 the disability retirement program for participants ~~members~~ of
 5259 the Public Employee Optional Retirement Program as created in
 5260 this act must ~~Florida Retirement System Investment Plan~~ meet all
 5261 applicable requirements of federal law for a qualified plan. The

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5262 Department of Management Services shall seek a private letter
5263 ruling from the Internal Revenue Service on the disability
5264 retirement program for participants of the Public Employee
5265 Optional Retirement Program. Consistent with the private letter
5266 ruling, the Department of Management Services shall adopt any
5267 necessary rules required ~~necessary~~ to maintain the qualified
5268 status of the disability retirement program and the Florida
5269 Retirement System Defined Benefit ~~Pension~~ Plan.

5270 Section 32. Section 121.70, Florida Statutes, is amended to
5271 read:

5272 121.70 Legislative purpose and intent.—

5273 (1) This part provides for a uniform system for funding
5274 benefits provided under the Florida Retirement System Defined
5275 Benefit Program ~~Pension Plan~~ established under part I of this
5276 chapter (referred to in this part as the defined benefit program
5277 ~~pension plan~~) and under the Public Employee Optional Retirement
5278 Program ~~Florida Retirement System Investment Plan~~ established
5279 under part II of this chapter (referred to in this part as the
5280 optional retirement program ~~investment plan~~). The Legislature
5281 recognizes and declares that the Florida Retirement System is a
5282 single retirement system, consisting of two retirement plans and
5283 other nonintegrated programs. ~~Employees and~~ Employers
5284 participating in the Florida Retirement System collectively
5285 shall be responsible for making contributions to support the
5286 benefits afforded ~~provided~~ under both plans. As provided in this
5287 part, The employees and employers participating in the Florida
5288 Retirement System shall make contributions based upon uniform
5289 contribution rates determined as a percentage of the total
5290 payroll ~~employee's gross monthly compensation~~ for each the

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5291 ~~employee's~~ class or subclass of Florida Retirement System
 5292 membership, irrespective of which ~~the~~ retirement plan ~~in which~~
 5293 ~~the~~ individual employees may elect ~~employee is enrolled~~. This
 5294 shall be known as a uniform or blended contribution rate system.

5295 (2) In establishing a uniform contribution rate system, it
 5296 is the intent of the Legislature to:

5297 (a) Provide greater stability and certainty in financial
 5298 planning and budgeting for Florida Retirement System employers
 5299 by eliminating the fiscal instability that would be caused by
 5300 dual rates coupled with employee-selected plan participation;

5301 (b) Provide greater fiscal equity and uniformity for system
 5302 employers by effectively distributing the financial burden and
 5303 benefit of short-term system deficits and surpluses,
 5304 respectively, in proportion to total system payroll; and

5305 (c) Allow employees to make their retirement plan selection
 5306 decisions free of circumstances that may cause employers to
 5307 favor one plan choice over another.

5308 Section 33. Section 121.71, Florida Statutes, is amended to
 5309 read:

5310 121.71 Uniform rates; process; calculations; levy.—

5311 (1) In conducting the system actuarial study required under
 5312 s. 121.031, the actuary shall follow all requirements specified
 5313 thereunder to determine, by Florida Retirement System employee
 5314 membership class, the dollar contribution amounts necessary for
 5315 the forthcoming ~~next~~ fiscal year for the defined benefit program
 5316 ~~pension plan~~. In addition, the actuary shall determine, by
 5317 Florida Retirement System membership class, based on an estimate
 5318 for the forthcoming ~~next~~ fiscal year of the gross compensation
 5319 of employees participating in the optional retirement program

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5320 ~~investment plan~~, the dollar contribution amounts necessary to
5321 make the allocations required under ss. 121.72 and 121.73. For
5322 each employee membership class and subclass, the actuarial study
5323 shall ~~must~~ establish a uniform rate necessary to fund the
5324 benefit obligations under both Florida Retirement System
5325 retirement plans by dividing the sum of total dollars required
5326 by the estimated gross compensation of members in both plans.

5327 (2) Based on the uniform rates set forth in subsection
5328 ~~subsections (3), (4), and (5)~~, ~~employees and~~ employers shall
5329 make monthly contributions to the Division of Retirement ~~as~~
5330 ~~required in s. 121.061(1)~~, which shall initially deposit the
5331 funds into the Florida Retirement System Contributions Clearing
5332 Trust Fund. A change in a contribution rate is effective the
5333 first day of the month for which a full month's employer ~~and~~
5334 ~~employee~~ contribution may be made on or after the beginning date
5335 of the change. ~~Beginning July 1, 2011, each employee shall~~
5336 ~~contribute the contributions required in subsection (3). The~~
5337 ~~employer shall deduct the contribution from the employee's~~
5338 ~~monthly salary, and the contribution shall be submitted to the~~
5339 ~~division. These contributions shall be reported as employer-paid~~
5340 ~~employee contributions, and credited to the account of the~~
5341 ~~employee. The contributions shall be deducted from the~~
5342 ~~employee's salary before the computation of applicable federal~~
5343 ~~taxes and treated as employer contributions under 26 U.S.C. s.~~
5344 ~~414(h)(2). The employer specifies that the contributions,~~
5345 ~~although designated as employee contributions, are being paid by~~
5346 ~~the employer in lieu of contributions by the employee. The~~
5347 ~~employee does not have the option of choosing to receive the~~
5348 ~~contributed amounts directly instead of having them paid by the~~

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5349 ~~employer to the plan. Such contributions are mandatory, and each~~
 5350 ~~employee is considered to have consented to payroll deductions.~~
 5351 ~~Payment of an employee's salary or wages, less the contribution,~~
 5352 ~~is a full and complete discharge and satisfaction of all claims~~
 5353 ~~and demands for the service rendered by employees during the~~
 5354 ~~period covered by the payment, except their claims to the~~
 5355 ~~benefits to which they may be entitled under this chapter.~~

5356 ~~(3) Required employee retirement contribution rates for~~
 5357 ~~each membership class and subclass of the Florida Retirement~~
 5358 ~~System for both retirement plans are as follows:~~

Membership Class	Percentage of Gross Compensation, Effective July 1, 2011
5360	
5361 Regular Class	3.00%
5362 Special Risk Class	3.00%
5363 Special Risk Administrative Support Class	3.00%
5364 Elected Officers' Class— Legislators, Governor,	3.00%

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

5365

~~Elected Officers' Class~~ ~~3.00%~~
~~Justices, Judges~~

5366

~~Elected Officers' Class~~ ~~3.00%~~
~~County Elected Officers~~

5367

~~Senior Management Service Class~~ ~~3.00%~~

5368

~~DROP~~ ~~0.00%~~

5369

5370 (3)~~(4)~~ Required employer retirement contribution rates for
 5371 each membership class and subclass of the Florida Retirement
 5372 System for both retirement plans are as follows:
 5373

Membership Class	Percentage of Gross Compensation, Effective July 1, <u>2012</u> 2011	Percentage of Gross Compensation, Effective July 1, <u>2013</u> 2012
------------------	------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------

5374

5375

Regular Class	<u>8.69%</u> 3.28%	<u>9.63%</u> 3.28%
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5376	Special Risk Class	<u>19.76%</u> 10.21%	<u>22.11%</u> 10.21%
5377	Special Risk Administrative Support Class	<u>11.39%</u> 4.07%	<u>12.10%</u> 4.07%
5378	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%
5379	Elected Officers' Class— Justices, Judges	<u>18.40%</u> 9.78%	<u>20.65%</u> 9.78%
5380	Elected Officers' Class— County Elected Officers	<u>15.37%</u> 9.27%	<u>17.50%</u> 9.27%
5381	Senior Management Class	<u>11.96%</u> 4.81%	<u>13.43%</u> 4.81%
5382	DROP	<u>9.80%</u> 3.31%	<u>11.14%</u> 3.31%
5383			
5384	(5) In order to address unfunded actuarial liabilities of		
5385	the system, the required employer retirement contribution rates		

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5386 ~~for each membership class and subclass of the Florida Retirement~~
 5387 ~~System for both retirement plans are as follows:~~

5388

Membership Class	Percentage of Gross Compensation, Effective July 1, 2011	Percentage of Gross Compensation, Effective July 1, 2012
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5389

5390

Regular Class	0.49%	2.16%
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5391

Special Risk Class	2.75%	8.21%
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5392

Special Risk	0.83%	21.40%
Administrative		
Support Class		

5393

Elected Officers' Class	0.88%	21.76%
Legislators, Governor,		
Lt. Governor,		
Cabinet Officers,		
State Attorneys,		
Public Defenders		

5394

Elected Officers' Class	0.77%	12.86%
Justices, Judges		

5395

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Elected Officers' Class	0.73%	22.05%
County Elected Officers		

5396

Senior Management Service Class	0.32%	10.51%
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5397

DROP	0.00%	6.36%
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5398

5399 ~~(6) If a member is reported under an incorrect membership~~
 5400 ~~class and the amount of contributions reported and remitted is~~
 5401 ~~less than the amount required, the employer shall owe the~~
 5402 ~~difference, plus the delinquent fee, of 1 percent for each~~
 5403 ~~calendar month or part thereof that the contributions should~~
 5404 ~~have been paid. The delinquent assessment may not be waived. If~~
 5405 ~~the contributions reported and remitted are more than the amount~~
 5406 ~~required, the employer shall receive a credit to be applied~~
 5407 ~~against future contributions owed.~~

5408 (4)~~(7)~~ The state actuary shall recognize and use an
 5409 appropriate level of available excess assets of the Florida
 5410 Retirement System Trust Fund to offset the difference between
 5411 the normal costs of the Florida Retirement System and the
 5412 statutorily prescribed contribution rates.

5413 Section 34. Section 121.72, Florida Statutes, is amended to
 5414 read:

5415 121.72 Allocations to optional retirement program
 5416 participant investment plan member accounts; percentage
 5417 amounts.—

5418 (1) The allocations established in subsection (4) shall
 5419 fund retirement benefits under the optional retirement program

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5420 ~~investment plan~~ and shall be transferred monthly by the Division
 5421 of Retirement from the Florida Retirement System Contributions
 5422 Clearing Trust Fund to the third-party administrator for deposit
 5423 in each participating employee's individual account based on the
 5424 membership class of the participant.

5425 (2) The allocations are stated as a percentage of each
 5426 optional retirement program participant's ~~investment plan~~
 5427 ~~member's~~ gross compensation for the calendar month. A change in
 5428 a contribution percentage is effective the first day of the
 5429 month for which a full month's employer contribution ~~retirement~~
 5430 ~~contributions~~ may be made on or after the beginning date of the
 5431 change. Contribution percentages may be modified by general law.

5432 (3) Employer and participant ~~employee~~ contributions to
 5433 participant member accounts shall be accounted for separately.
 5434 Participant contributions may be made only if expressly
 5435 authorized by law. Interest and investment earnings on
 5436 contributions shall accrue on a tax-deferred basis until
 5437 proceeds are distributed.

5438 (4) Effective July 1, 2002, allocations from the Florida
 5439 Retirement System Contributions Clearing Trust Fund to optional
 5440 retirement program participant ~~investment plan member~~ accounts
 5441 shall be ~~are~~ as follows:

Membership Class	Percentage of Gross Compensation
Regular Class	9.00%
Special Risk Class	20.00%

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5445	Special Risk Administrative Support Class	11.35%
5446	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.40%
5447	Elected Officers' Class— Justices, Judges	18.90%
5448	Elected Officers' Class— County Elected Officers	16.20%
5449	Senior Management Service Class	10.95%
5450	Section 35. Section 121.73, Florida Statutes, is amended to	
5451	read:	
5452	121.73 Allocations for <u>optional retirement program</u>	
5453	<u>participant member</u> disability coverage; percentage amounts.—	
5454	(1) The allocations established in subsection (3) shall be	
5455	used to provide disability coverage for <u>participants</u> members in	
5456	the <u>optional retirement program investment plan</u> and shall be	
5457	transferred monthly by the Division of Retirement from the	
5458	Florida Retirement System Contributions Clearing Trust Fund to	
5459	the disability account of the Florida Retirement System Trust	
5460	Fund.	
5461	(2) The allocations are stated as a percentage of each	

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5462 optional retirement program participant's investment plan
 5463 ~~member's~~ gross compensation for the calendar month. A change in
 5464 a contribution percentage is effective the first day of the
 5465 month for which a full month's employer contribution retirement
 5466 ~~contributions~~ may be made on or after the beginning date of the
 5467 change. Contribution percentages may be modified by general law.

5468 (3) Effective July 1, 2002, allocations from the FRS
 5469 Contribution Florida Retirement System Contributions Clearing
 5470 ~~Trust~~ Fund to provide disability coverage for participants
 5471 ~~members~~ in the optional retirement program investment plan, and
 5472 to offset the costs of administering said coverage, shall be ~~are~~
 5473 as follows:

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

5474	Regular Class	0.25%
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5475	Special Risk Class	1.33%
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5476	Special Risk Administrative Support Class	0.45%
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5477	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
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5478	Elected Officers' Class— Justices, Judges	0.73%
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5479

Elected Officers' Class— 0.41%
 County Elected Officers

5480

Senior Management Service Class 0.26%

5481

5482 Section 36. Section 121.74, Florida Statutes, is amended to
 5483 read:

5484 121.74 Administrative and educational expenses.—In addition
 5485 to contributions required under s. ss. 121.71 ~~and 121.73~~,
 5486 effective July 1, 2010, through June 30, 2014, employers
 5487 participating in the Florida Retirement System shall contribute
 5488 an amount equal to 0.03 percent of the payroll reported for each
 5489 class or subclass of Florida Retirement System membership;~~—~~
 5490 effective July 1, 2014, the contribution rate shall be 0.04
 5491 percent of the payroll reported for each class or subclass of
 5492 membership. The amount contributed shall be transferred by the
 5493 Division of Retirement from the Florida Retirement System
 5494 Contributions Clearing Trust Fund to the State Board of
 5495 Administration's Administrative Trust Fund to offset the costs
 5496 of administering the optional retirement program investment plan
 5497 and the costs of providing educational services to participants
 5498 in the defined benefit program and the optional retirement
 5499 program members of the Florida Retirement System. Approval of
 5500 the trustees is required before the expenditure of these funds.
 5501 Payments for third-party administrative or educational expenses
 5502 shall be made only pursuant to the terms of the approved
 5503 contracts for such services.

5504 Section 37. Section 121.75, Florida Statutes, is amended to

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5505 read:

5506 121.75 Allocation for defined benefit program ~~pension~~
5507 ~~plan~~.—After making the transfers required pursuant to ss.
5508 121.71, 121.72, 121.73, and 121.74, the monthly balance of funds
5509 in the Florida Retirement System Contributions Clearing Trust
5510 Fund shall be transferred to the Florida Retirement System Trust
5511 Fund to pay the costs of providing defined benefit program
5512 ~~pension plan~~ benefits and plan administrative costs under the
5513 defined benefit program ~~pension plan~~.

5514 Section 38. Section 121.77, Florida Statutes, is amended to
5515 read:

5516 121.77 Deductions from participant ~~member~~ accounts.—The
5517 State Board of Administration may authorize the third-party
5518 administrator to deduct reasonable fees and apply appropriate
5519 charges to optional retirement program participant ~~investment~~
5520 ~~plan member~~ accounts. In no event shall ~~may~~ administrative and
5521 educational expenses exceed the portion of employer
5522 contributions earmarked for such expenses under this part,
5523 except for reasonable administrative charges assessed against
5524 participant ~~member~~ accounts of persons for whom no employer
5525 contributions are made during the calendar quarter. Investment
5526 management fees shall be deducted from participant ~~member~~
5527 accounts, pursuant to the terms of the contract between the
5528 provider and the board.

5529 Section 39. Section 121.78, Florida Statutes, is amended to
5530 read:

5531 121.78 Payment and distribution of contributions.—

5532 (1) Contributions made pursuant to this part shall be paid
5533 by the employer, ~~including the employee contribution,~~ to the

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5534 Division of Retirement by electronic funds transfer no later
 5535 than the 5th working day of the month immediately after
 5536 ~~following~~ the month during which the payroll period ended.
 5537 Accompanying payroll data must be transmitted to the division
 5538 concurrent with the contributions.

5539 (2) The division, the State Board of Administration, and
 5540 the third-party administrator, as applicable, shall ensure that
 5541 the contributions are distributed to the appropriate trust funds
 5542 or participant accounts in a timely manner.

5543 (3) (a) ~~Employee and~~ Employer contributions and accompanying
 5544 payroll data received after the 5th working day of the month are
 5545 considered late. The employer shall be assessed by the Division
 5546 of Retirement a penalty of 1 percent of the contributions due
 5547 for each calendar month or part thereof that the contributions
 5548 or accompanying payroll data are late. Proceeds from the 1-
 5549 percent ~~1 percent~~ assessment against contributions made on
 5550 behalf of participants ~~members~~ of the defined benefit program
 5551 shall ~~pension plan must~~ be deposited in the Florida Retirement
 5552 System Trust Fund, and proceeds from the 1-percent ~~1 percent~~
 5553 assessment against contributions made on behalf of participants
 5554 ~~members~~ of the optional retirement program ~~investment plan~~ shall
 5555 be transferred to the third-party administrator for deposit into
 5556 participant ~~member~~ accounts, as provided in paragraph (b) ~~(c)~~.

5557 ~~(b) Retirement contributions paid for a prior period shall~~
 5558 ~~be charged a delinquent fee of 1 percent for each calendar month~~
 5559 ~~or part thereof that the contributions should have been paid.~~
 5560 ~~This includes prior period contributions due to incorrect wages~~
 5561 ~~and contributions from an earlier report or wages and~~
 5562 ~~contributions that should have been reported but were not. The~~

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5563 ~~delinquent assessments may not be waived.~~

5564 (b)~~(c)~~ If ~~employee contributions or~~ contributions made by
 5565 an employer on behalf of participants ~~members~~ of the optional
 5566 retirement program investment plan or accompanying payroll data
 5567 are not received within the calendar month they are due,
 5568 including, but not limited to, contribution adjustments as a
 5569 result of employer errors or corrections, and if that
 5570 delinquency results in market losses to participants ~~members~~,
 5571 the employer shall reimburse each participant's ~~member's~~ account
 5572 for market losses resulting from the late contributions. If a
 5573 participant ~~member~~ has terminated employment and taken a
 5574 distribution, the participant ~~member~~ is responsible for
 5575 returning any excess contributions erroneously provided by
 5576 employers, adjusted for any investment gain or loss incurred
 5577 during the period such excess contributions were in the
 5578 participant's ~~member's~~ account. The state board or its
 5579 designated agent shall communicate to terminated participants
 5580 ~~members~~ any obligation to repay such excess contribution
 5581 amounts. However, the state board, its designated agents, the
 5582 Public Employee Optional Retirement Program Florida Retirement
 5583 System Investment Plan Trust Fund, the department, or the
 5584 Florida Retirement System Trust Fund may not incur any loss or
 5585 gain as a result of an employer's correction of such excess
 5586 contributions. The third-party administrator, hired by the state
 5587 board pursuant to s. 121.4501(8), shall calculate the market
 5588 losses for each affected participant ~~member~~. If contributions
 5589 made on behalf of participants ~~members~~ of the optional
 5590 retirement program investment plan or accompanying payroll data
 5591 are not received within the calendar month due, the employer

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5592 shall also pay the cost of the third-party administrator's
5593 calculation and reconciliation adjustments resulting from the
5594 late contributions. The third-party administrator shall notify
5595 the employer of the results of the calculations and the total
5596 amount due from the employer for such losses and the costs of
5597 calculation and reconciliation. The employer shall remit to the
5598 Division of Retirement the amount due within 30 working days
5599 after the date of the penalty notice sent by the division. The
5600 division shall transfer that amount to the third-party
5601 administrator, which shall deposit proceeds from the 1 percent
5602 assessment and from individual market losses into participant
5603 ~~member~~ accounts, as appropriate. The state board may adopt rules
5604 to administer the provisions regarding late contributions, late
5605 submission of payroll data, the process for reimbursing
5606 participant ~~member~~ accounts for resultant market losses, and the
5607 penalties charged to the employers.

5608 ~~(d) If employee contributions reported by an employer on~~
5609 ~~behalf of members are reduced as a result of employer errors or~~
5610 ~~corrections, and the member has terminated employment and taken~~
5611 ~~a refund or distribution, the employer shall be billed and is~~
5612 ~~responsible for recovering from the member any excess~~
5613 ~~contributions erroneously provided by the employer.~~

5614 (c) ~~(e)~~ Delinquency fees ~~specified in paragraph (a)~~ may be
5615 waived by the Division of Retirement, with regard to ~~pension~~
5616 ~~plan~~ defined benefit program contributions, and by the state
5617 board, with regard to optional retirement program ~~investment~~
5618 ~~plan~~ contributions, only if, in the opinion of the division or
5619 the board, as appropriate, exceptional circumstances beyond the
5620 employer's control prevented remittance by the prescribed due

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5621 date notwithstanding the employer's good faith efforts to effect
5622 delivery. Such a waiver of delinquency may be granted an
5623 employer only once each state fiscal ~~plan~~ year.

5624 ~~(f) If the employer submits excess employer or employee~~
5625 ~~contributions, the employer shall receive a credit to be applied~~
5626 ~~against future contributions owed. The employer is responsible~~
5627 ~~for reimbursing the member for any excess contributions~~
5628 ~~submitted if any return of such an erroneous excess pretax~~
5629 ~~contribution by the program is made within 1 year after making~~
5630 ~~erroneous contributions or such other period allowed under~~
5631 ~~applicable Internal Revenue guidance.~~

5632 (d) ~~(g)~~ If contributions made by an employer on behalf of
5633 participants ~~members~~ in the optional retirement program
5634 ~~investment plan~~ are delayed in posting to participant ~~member~~
5635 accounts due to acts of God beyond the control of the Division
5636 of Retirement, the state board, or the third-party
5637 administrator, as applicable, market losses resulting from the
5638 late contributions are not payable to the participants ~~members~~.

5639 Section 40. Paragraph (a) of subsection (4), paragraph (b)
5640 of subsection (5), and subsection (7) of section 1012.875,
5641 Florida Statutes, are amended to read:

5642 1012.875 State Community College System Optional Retirement
5643 Program.—Each Florida College System institution may implement
5644 an optional retirement program, if such program is established
5645 therefor pursuant to s. 1001.64(20), under which annuity or
5646 other contracts providing retirement and death benefits may be
5647 purchased by, and on behalf of, eligible employees who
5648 participate in the program, in accordance with s. 403(b) of the
5649 Internal Revenue Code. Except as otherwise provided herein, this

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5650 retirement program, which shall be known as the State Community
5651 College System Optional Retirement Program, may be implemented
5652 and administered only by an individual Florida College System
5653 institution or by a consortium of Florida College System
5654 institutions.

5655 (4) (a) ~~1. Through June 30, 2011,~~ Each college must
5656 contribute on behalf of each program participant ~~member~~ an
5657 amount equal to 10.43 percent of the participant's ~~employee's~~
5658 gross monthly compensation.

5659 ~~2. Effective July 1, 2011, each member shall contribute an~~
5660 ~~amount equal to the employee contribution required under s.~~
5661 ~~121.71(3). The employer shall contribute on behalf of each~~
5662 ~~program member an amount equal to the difference between 10.43~~
5663 ~~percent of the employee's gross monthly compensation and the~~
5664 ~~employee's required contribution based on the employee's gross~~
5665 ~~monthly compensation.~~

5666 ~~3.~~ The college shall deduct an amount approved by the
5667 district board of trustees of the college to provide for the
5668 administration of the optional retirement program. Payment of
5669 this contribution must be made either directly by the college or
5670 through the program administrator to the designated company
5671 contracting for payment of benefits to the program participant
5672 ~~member~~.

5673 (5)

5674 (b) Benefits are payable under the optional retirement
5675 program to program participants or their beneficiaries and the
5676 benefits must be paid only by the designated company in
5677 accordance with the terms of the contracts applicable to the
5678 program participant. Benefits shall accrue in individual

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5679 accounts that are participant-directed, portable, and funded by
5680 employer ~~and employee~~ contributions and the earnings thereon.
5681 Benefits funded by employer ~~and employee~~ contributions are
5682 payable in accordance with the following terms and conditions:

5683 1. Benefits shall be payable only to a participant, to his
5684 or her beneficiaries, or to his or her estate, as designated by
5685 the participant.

5686 2. Benefits shall be paid by the provider company or
5687 companies in accordance with the law, the provisions of the
5688 contract, and any applicable employer rule or policy.

5689 3. In the event of a participant's death, moneys
5690 accumulated by, or on behalf of, the participant, less
5691 withholding taxes remitted to the Internal Revenue Service, if
5692 any, shall be distributed to the participant's designated
5693 beneficiary or beneficiaries, or to the participant's estate, as
5694 if the participant retired on the date of death as provided in
5695 paragraph (d). No other death benefits shall be ~~are~~ available
5696 for survivors of participants under the optional retirement
5697 program except for such benefits, or coverage for such benefits,
5698 as are separately afforded by the employer at the employer's
5699 discretion.

5700 ~~(7) Benefits, including employee contributions, are not~~
5701 ~~payable for employee hardships, unforeseeable emergencies,~~
5702 ~~loans, medical expenses, educational expenses, purchase of a~~
5703 ~~principal residence, payments necessary to prevent eviction or~~
5704 ~~foreclosure on an employee's principal residence, or any other~~
5705 ~~reason before termination from all employment relationships with~~
5706 ~~participating employers for 3 calendar months.~~

5707 Section 41. Employee contributions plus interest made by

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5708 participants between July 1, 2011, and June 30, 2012, shall be
5709 reimbursed to the participants at the actuarial assumption rate
5710 as determined by the Division of Retirement.

5711 Section 42. The Legislature finds that a proper and
5712 legitimate state purpose is served when employees and retirees
5713 of the state and its political subdivisions, and the dependents,
5714 survivors, and beneficiaries of such employees and retirees, are
5715 extended the basic protections afforded by governmental
5716 retirement systems. These persons must be provided benefits that
5717 are fair and adequate and that are managed, administered, and
5718 funded in an actuarially sound manner, as required by s. 14,
5719 Article X of the State Constitution and part VII of chapter 112,
5720 Florida Statutes. Therefore, the Legislature determines and
5721 declares that this act fulfills an important state interest.

5722 Section 43. This act shall take effect July 1, 2012.