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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/28/2012	.	
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The Committee on Budget (Richter) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 121.012, Florida Statutes, is created to  
read:

121.012 Inclusive provisions.—The provisions of part I of  
this chapter shall be applicable to parts II and III to the  
extent such provisions are not inconsistent with, or duplicative  
of, the provisions of parts II and III.

Section 2. Subsection (29) and paragraph (b) of subsection  
(45) of section 121.021, Florida Statutes, are amended to read:

121.021 Definitions.—The following words and phrases as



833344

14 used in this chapter have the respective meanings set forth  
15 unless a different meaning is plainly required by the context:

16 (29) "Normal retirement date" means the date a member  
17 attains normal retirement age and is vested, which is determined  
18 as follows:

19 (a)~~1.~~ If a Regular Class member, a Senior Management  
20 Service Class member, or an Elected Officers' Class member  
21 initially enrolled:

22 1. Before July 1, 2011:

23 a. The first day of the month the member attains age 62; or

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

26 2. ~~If a Regular Class member, a Senior Management Service~~  
27 ~~Class member, or an Elected Officers' Class member initially~~  
28 ~~enrolled~~ On or after July 1, 2011:

29 a. The first day of the month the member attains age 65; or

30 b. The first day of the month following the date the member  
31 completes 33 years of creditable service, regardless of age.

32 (b)~~1.~~ If a Special Risk Class member initially enrolled:

33 1. Before July 1, 2011:

34 a. The first day of the month the member attains age 55 and  
35 completes the years of creditable service in the Special Risk  
36 Class equal to or greater than the years of service required for  
37 vesting;

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

41 c. The first day of the month following the date the member  
42 completes 25 years of creditable service and attains age 52,



833344

43 which service may include a maximum of 4 years of military  
44 service credit if such credit is not claimed under any other  
45 system and the remaining years are in the Special Risk Class.

46 2. ~~If a Special Risk Class member initially enrolled~~ On or  
47 after July 1, 2011:

48 a. The first day of the month the member attains age 60 and  
49 completes the years of creditable service in the Special Risk  
50 Class equal to or greater than the years of service required for  
51 vesting;

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

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

60  
61 For pension plan members, "normal retirement age" is attained on  
62 the "normal retirement date." For investment plan members,  
63 normal retirement age is the date a member attains his or her  
64 normal retirement date as provided in this section, or the date  
65 a member is vested under the investment plan as provided in s.  
66 121.4501(6), whichever is later.

67 (45) "Vested" or "vesting" means the guarantee that a  
68 member is eligible to receive a future retirement benefit upon  
69 completion of the required years of creditable service for the  
70 employee's class of membership, even though the member may have  
71 terminated covered employment before reaching normal or early



833344

72 retirement date. Being vested does not entitle a member to a  
73 disability benefit. Provisions governing entitlement to  
74 disability benefits are set forth under s. 121.091(4).

75 (b) Any member initially enrolled in the Florida Retirement  
76 System on or after July 1, 2011, shall be vested in the pension  
77 plan upon completion of 8 years of creditable service.

78 Section 3. Paragraph (k) of subsection (3) of section  
79 121.0515, Florida Statutes, is amended to read:

80 121.0515 Special Risk Class.—

81 (3) CRITERIA.—A member, to be designated as a special risk  
82 member, must meet the following criteria:

83 (k) The member must have already qualified for and be  
84 actively participating in special risk membership under  
85 paragraph (a), paragraph (b), or paragraph (c), must have  
86 suffered a qualifying injury as defined in this paragraph, must  
87 not be receiving disability retirement benefits as provided in  
88 s. 121.091(4), and must satisfy the requirements of this  
89 paragraph.

90 1. The ability to qualify for the class of membership  
91 defined in paragraph (2) (i) ~~(2) (f)~~ occurs when two licensed  
92 medical physicians, one of whom is a primary treating physician  
93 of the member, certify the existence of the physical injury and  
94 medical condition that constitute a qualifying injury as defined  
95 in this paragraph and that the member has reached maximum  
96 medical improvement after August 1, 2008. The certifications  
97 from the licensed medical physicians must include, at a minimum,  
98 that the injury to the special risk member has resulted in a  
99 physical loss, or loss of use, of at least two of the following:  
100 left arm, right arm, left leg, or right leg; and:



833344

101           a. That this physical loss or loss of use is total and  
102 permanent, except in the event that the loss of use is due to a  
103 physical injury to the member's brain, in which event the loss  
104 of use is permanent with at least 75 percent loss of motor  
105 function with respect to each arm or leg affected.

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

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

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

116           e. That the physical loss or loss of use is a direct result  
117 of a physical injury and not a result of any mental,  
118 psychological, or emotional injury.

119           2. For the purposes of this paragraph, "qualifying injury"  
120 means an injury sustained in the line of duty, as certified by  
121 the member's employing agency, by a special risk member that  
122 does not result in total and permanent disability as defined in  
123 s. 121.091(4)(b). An injury is a qualifying injury if the injury  
124 is a physical injury to the member's physical body resulting in  
125 a physical loss, or loss of use, of at least two of the  
126 following: left arm, right arm, left leg, or right leg.  
127 Notwithstanding any other provision of this section, an injury  
128 that would otherwise qualify as a qualifying injury is not  
129 considered a qualifying injury if and when the member ceases



833344

130 employment with the employer for whom he or she was providing  
131 special risk services on the date the injury occurred.

132         3. The new position, as described in sub-subparagraph 1.c.,  
133 that is required for qualification as a special risk member  
134 under this paragraph is not required to be a position with  
135 essential job functions that entitle an individual to special  
136 risk membership. Whether a new position as described in sub-  
137 subparagraph 1.c. exists and is available to the special risk  
138 member is a decision to be made solely by the employer in  
139 accordance with its hiring practices and applicable law.

140         4. This paragraph does not grant or create additional  
141 rights for any individual to continued employment or to be hired  
142 or rehired by his or her employer that are not already provided  
143 within the Florida Statutes, the State Constitution, the  
144 Americans with Disabilities Act, if applicable, or any other  
145 applicable state or federal law.

146         Section 4. Paragraph (f) of subsection (1) and paragraph  
147 (e) of subsection (6) of section 121.055, Florida Statutes, are  
148 amended to read:

149         121.055 Senior Management Service Class.—There is hereby  
150 established a separate class of membership within the Florida  
151 Retirement System to be known as the "Senior Management Service  
152 Class," which shall become effective February 1, 1987.

153         (1)

154         (f) Effective July 1, 1997:

155         1. Except as provided in subparagraph 3., an elected state  
156 officer eligible for membership in the Elected Officers' Class  
157 under s. 121.052(2)(a), (b), or (c) who elects membership in the  
158 Senior Management Service Class under s. 121.052(3)(c) may,



833344

159 within 6 months after assuming office or within 6 months after  
160 this act becomes a law for serving elected state officers, elect  
161 to participate in the Senior Management Service Optional Annuity  
162 Program, as provided in subsection (6), in lieu of membership in  
163 the Senior Management Service Class.

164 2. Except as provided in subparagraph 3., an elected  
165 officer of a local agency employer eligible for membership in  
166 the Elected Officers' Class under s. 121.052(2)(d) who elects  
167 membership in the Senior Management Service Class under s.  
168 121.052(3)(c) may, within 6 months after assuming office, or  
169 within 6 months after this act becomes a law for serving elected  
170 officers of a local agency employer, elect to withdraw from the  
171 Florida Retirement System, as provided in subparagraph (b)2., in  
172 lieu of membership in the Senior Management Service Class.

173 3. A retiree of a state-administered retirement system who  
174 is initially reemployed in a regularly established position on  
175 or after July 1, 2010, as an elected official eligible for the  
176 Elected Officers' Class may not be enrolled in renewed ~~renew~~  
177 membership in the Senior Management Service Class or in the  
178 Senior Management Service Optional Annuity Program as provided  
179 in subsection (6), and may not withdraw from the Florida  
180 Retirement System as a renewed member as provided in  
181 subparagraph (b)2., as applicable, in lieu of membership in the  
182 Senior Management Service Class.

183 (6)

184 (e) *Benefits.*—

185 1. Benefits under the Senior Management Service Optional  
186 Annuity Program are payable only to members of the program, or  
187 their beneficiaries as designated by the member in the contract



833344

188 with the provider company, and must be paid by the designated  
189 company in accordance with the terms of the annuity contract  
190 applicable to the member. A member must be terminated from all  
191 employment relationships with Florida Retirement System  
192 employers for 3 calendar months to begin receiving the employer-  
193 funded and employee-funded benefit. The department may authorize  
194 a distribution of up to 10 percent of the member's account after  
195 being terminated from employment with all participating  
196 employers for 1 calendar month if the member has reached the  
197 normal retirement date as defined in s. 121.021. The department  
198 may adopt rules to implement this subparagraph. The member must  
199 meet the definition of termination in s. 121.021(39) beginning  
200 the month after receiving a benefit, including a distribution.  
201 Benefits funded by employer and employee contributions are  
202 payable under the terms of the contract to the member, his or  
203 her beneficiary, or his or her estate, in addition to:  
204       a. A lump-sum payment to the beneficiary upon the death of  
205 the member;  
206       b. A cash-out of a de minimis account upon the request of a  
207 former member who has been terminated for a minimum of 6  
208 calendar months from the employment that entitled him or her to  
209 optional annuity program participation. Such cash-out must be a  
210 complete liquidation of the account balance with that company  
211 and is subject to the Internal Revenue Code;  
212       c. A mandatory distribution of a de minimis account of a  
213 former member who has been terminated for a minimum of 6  
214 calendar months from the employment that entitled him or her to  
215 optional annuity program participation as authorized by the  
216 department; or





833344

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

222 2. Under the Senior Management Service Optional Annuity  
223 Program, benefits, including employee contributions, are not  
224 payable for employee hardships, unforeseeable emergencies,  
225 loans, medical expenses, educational expenses, purchase of a  
226 principal residence, payments necessary to prevent eviction or  
227 foreclosure on an employee's principal residence, or any other  
228 reason except a requested distribution for retirement, a  
229 mandatory de minimis distribution authorized by the  
230 administrator, or a required minimum distribution provided  
231 pursuant to the Internal Revenue Code ~~before termination from~~  
232 ~~all employment relationships with participating employers for 3~~  
233 ~~calendar months.~~

234 3. The benefits payable to any person under the Senior  
235 Management Service Optional Annuity Program, and any  
236 contribution accumulated under such program, are not subject to  
237 assignment, execution, or attachment or to any legal process  
238 whatsoever.

239 4. Except as provided in subparagraph 5., a member who  
240 terminates employment and receives a distribution, including a  
241 rollover or trustee-to-trustee transfer, funded by employer and  
242 required employee contributions is a retiree of ~~deemed to be~~  
243 ~~retired from~~ a state-administered retirement system. A retiree  
244 of a state-administered retirement system who is initially  
245 reemployed in a regularly established position on or after July



833344

246 1, 2010, is not eligible to be enrolled in renewed membership if  
247 ~~the member is subsequently employed with an employer that~~  
248 ~~participates in the Florida Retirement System.~~

249 5. A member who receives optional annuity program benefits  
250 funded by employer and employee contributions as a mandatory  
251 distribution of a de minimis account authorized by the  
252 department is not considered a retiree.

253

254 As used in this paragraph, a "de minimis account" means an  
255 account with a provider company containing employer and employee  
256 contributions and accumulated earnings of not more than \$5,000  
257 made under this chapter.

258 Section 5. Subsection (7) of section 121.071, Florida  
259 Statutes, is amended to read:

260 121.071 Contributions.—Contributions to the system shall be  
261 made as follows:

262 (7) ~~Before termination of employment,~~ Benefits, including  
263 employee contributions, are not payable under the pension plan  
264 for employee hardships, unforeseeable emergencies, loans,  
265 medical expenses, educational expenses, purchase of a principal  
266 residence, payments necessary to prevent eviction or foreclosure  
267 on an employee's principal residence, or any other reason except  
268 a requested distribution for retirement, a mandatory de minimis  
269 distribution authorized by the administrator, or a required  
270 minimum distribution provided pursuant to the Internal Revenue  
271 Code before termination from all employment relationships with  
272 participating employers.

273 Section 6. Paragraph (a) of subsection (13) of section  
274 121.091, Florida Statutes, is amended to read:



833344

275           121.091 Benefits payable under the system.—Benefits may not  
276 be paid under this section unless the member has terminated  
277 employment as provided in s. 121.021(39) (a) or begun  
278 participation in the Deferred Retirement Option Program as  
279 provided in subsection (13), and a proper application has been  
280 filed in the manner prescribed by the department. The department  
281 may cancel an application for retirement benefits when the  
282 member or beneficiary fails to timely provide the information  
283 and documents required by this chapter and the department's  
284 rules. The department shall adopt rules establishing procedures  
285 for application for retirement benefits and for the cancellation  
286 of such application when the required information or documents  
287 are not received.

288           (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and  
289 subject to this section, the Deferred Retirement Option Program,  
290 hereinafter referred to as DROP, is a program under which an  
291 eligible member of the Florida Retirement System may elect to  
292 participate, deferring receipt of retirement benefits while  
293 continuing employment with his or her Florida Retirement System  
294 employer. The deferred monthly benefits shall accrue in the  
295 Florida Retirement System on behalf of the member, plus interest  
296 compounded monthly, for the specified period of the DROP  
297 participation, as provided in paragraph (c). Upon termination of  
298 employment, the member shall receive the total DROP benefits and  
299 begin to receive the previously determined normal retirement  
300 benefits. Participation in the DROP does not guarantee  
301 employment for the specified period of DROP. Participation in  
302 DROP by an eligible member beyond the initial 60-month period as  
303 authorized in this subsection shall be on an annual contractual



833344

304 basis for all participants.

305 (a) *Eligibility of member to participate in DROP.*—All  
306 active Florida Retirement System members in a regularly  
307 established position, and all active members of the Teachers'  
308 Retirement System established in chapter 238 or the State and  
309 County Officers' and Employees' Retirement System established in  
310 chapter 122, which are consolidated within the Florida  
311 Retirement System under s. 121.011, are eligible to elect  
312 participation in DROP if:

313 1. The member is not a renewed member under s. 121.122 or a  
314 member of the State Community College System Optional Retirement  
315 Program under s. 121.051, the Senior Management Service Optional  
316 Annuity Program under s. 121.055, or the optional retirement  
317 program for the State University System under s. 121.35.

318 2. Except as provided in subparagraph 6., for members  
319 initially enrolled before July 1, 2011, election to participate  
320 is made within 12 months immediately following the date on which  
321 the member first reaches normal retirement date, or, for a  
322 member who reaches normal retirement date based on service  
323 before he or she reaches age 62, or age 55 for Special Risk  
324 Class members, election to participate may be deferred to the 12  
325 months immediately following the date the member attains age 57,  
326 or age 52 for Special Risk Class members. Except as provided in  
327 subparagraph 6., for members initially enrolled on or after July  
328 1, 2011, election to participate is made within 12 months  
329 immediately following the date on which the member first reaches  
330 normal retirement date, or, for a member who reaches normal  
331 retirement date based on service before he or she reaches age  
332 65, or age 60 for Special Risk Class members, election to



833344

333 participate may be deferred to the 12 months immediately  
334 following the date the member attains age 60, or age 55 for  
335 Special Risk Class members. A member who delays DROP  
336 participation during the 12-month period immediately following  
337 his or her maximum DROP deferral date, except as provided in  
338 subparagraph 6., loses a month of DROP participation for each  
339 month delayed. A member who fails to make an election within the  
340 12-month limitation period forfeits all rights to participate in  
341 DROP. The member shall advise his or her employer and the  
342 division in writing of the date DROP begins. The beginning date  
343 may be subsequent to the 12-month election period but must be  
344 within the original 60-month participation period provided in  
345 subparagraph (b)1. When establishing eligibility to participate  
346 in DROP, the member may elect to include or exclude any optional  
347 service credit purchased by the member from the total service  
348 used to establish the normal retirement date. A member who has  
349 dual normal retirement dates is eligible to elect to participate  
350 in DROP after attaining normal retirement date in either class.

351 3. The employer of a member electing to participate in  
352 DROP, or employers if dually employed, shall acknowledge in  
353 writing to the division the date the member's participation in  
354 DROP begins and the date the member's employment and DROP  
355 participation terminates.

356 4. Simultaneous employment of a member by additional  
357 Florida Retirement System employers subsequent to the  
358 commencement of a member's participation in DROP is permissible  
359 if such employers acknowledge in writing a DROP termination date  
360 no later than the member's existing termination date or the  
361 maximum participation period provided in subparagraph (b)1.



833344

362           5. A member may change employers while participating in  
363 DROP, subject to the following:

364           a. A change of employment takes place without a break in  
365 service so that the member receives salary for each month of  
366 continuous DROP participation. If a member receives no salary  
367 during a month, DROP participation ceases unless the employer  
368 verifies a continuation of the employment relationship for such  
369 member pursuant to s. 121.021(39)(b).

370           b. The member and new employer notify the division of the  
371 identity of the new employer on forms required by the division.

372           c. The new employer acknowledges, in writing, the member's  
373 DROP termination date, which may be extended but not beyond the  
374 maximum participation period provided in subparagraph (b)1.,  
375 acknowledges liability for any additional retirement  
376 contributions and interest required if the member fails to  
377 timely terminate employment, and is subject to the adjustment  
378 required in sub-subparagraph (c)5.d.

379           6. Effective July 1, 2001, for instructional personnel as  
380 defined in s. 1012.01(2), election to participate in DROP may be  
381 made at any time following the date on which the member first  
382 reaches normal retirement date. The member shall advise his or  
383 her employer and the division in writing of the date on which  
384 DROP begins. When establishing eligibility of the member to  
385 participate in DROP for the 60-month participation period  
386 provided in subparagraph (b)1., the member may elect to include  
387 or exclude any optional service credit purchased by the member  
388 from the total service used to establish the normal retirement  
389 date. A member who has dual normal retirement dates is eligible  
390 to elect to participate in either class.



833344

391 Section 7. Subsection (2) of section 121.122, Florida  
392 Statutes, is amended to read:

393 121.122 Renewed membership in system.—

394 (2) A retiree of a state-administered retirement system who  
395 is initially reemployed in a regularly established position on  
396 or after July 1, 2010, may not be enrolled as a renewed member  
397 ~~is not eligible for renewed membership.~~

398 Section 8. Paragraphs (a), (b), and (g) of subsection (5)  
399 of section 121.35, Florida Statutes, are amended to read:

400 121.35 Optional retirement program for the State University  
401 System.—

402 (5) BENEFITS.—

403 (a) Benefits are payable under the optional retirement  
404 program only to vested members participating in the program, or  
405 their beneficiaries as designated by the member in the contract  
406 with a provider company, and such benefits shall be paid only by  
407 the designated company in accordance with s. 403(b) of the  
408 Internal Revenue Code and the terms of the annuity contract or  
409 investment contracts applicable to the member. A benefit under  
410 the optional retirement program is a distribution requested by  
411 the member or surviving beneficiary funded in part or in whole  
412 by employer or required employee contributions, plus earnings,  
413 and includes rolling a distribution over to another qualified  
414 plan. Benefits accrue in individual accounts that are member-  
415 directed, portable, and funded by employer and employee  
416 contributions and the earnings thereon. The member must be  
417 terminated for 3 calendar months from all employment  
418 relationships with all Florida Retirement System employers to  
419 begin receiving the benefit. The department may authorize a



833344

420 distribution of up to 10 percent of the member's account after  
421 being terminated from employment with all participating  
422 employers for 1 calendar month if the member has reached the  
423 normal retirement date as defined in s. 121.021. The department  
424 may adopt rules to implement this paragraph. Benefits funded by  
425 employer and required employee contributions are payable in  
426 accordance with the following terms and conditions:

427 1. Benefits shall be paid only to a participating member,  
428 to his or her beneficiaries, or to his or her estate, as  
429 designated by the member.

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

433 3. In the event of a member's death, moneys accumulated by,  
434 or on behalf of, the member, less withholding taxes remitted to  
435 the Internal Revenue Service, if any, shall be distributed to  
436 the member's designated beneficiary or beneficiaries, or to the  
437 member's estate, as if the member retired on the date of death,  
438 as provided in paragraph (d). No other death benefits are  
439 available to survivors of members under the optional retirement  
440 program except for such benefits, or coverage for such benefits,  
441 as are separately afforded by the employer, at the employer's  
442 discretion.

443 (b) Benefits, including employee contributions, are not  
444 payable for employee hardships, unforeseeable emergencies,  
445 loans, medical expenses, educational expenses, purchase of a  
446 principal residence, payments necessary to prevent eviction or  
447 foreclosure on an employee's principal residence, or any other  
448 reason except a requested distribution for retirement, a





833344

449 mandatory de minimis distribution authorized by the  
450 administrator, or a required minimum distribution provided  
451 pursuant to the Internal Revenue Code ~~before termination from~~  
452 ~~all employment relationships with participating employers for 3~~  
453 ~~calendar months.~~

454 (g) Benefits funded by the participating member's voluntary  
455 personal contributions may be paid out after termination from  
456 employment with all participating employers for 3 calendar  
457 months ~~at any time~~ and in any form within the limits provided in  
458 the contract between the member and the provider company. The  
459 member shall notify the provider company regarding the date and  
460 provisions under which he or she wants to receive the employee-  
461 funded portion of the plan.

462 Section 9. Paragraph (e) of subsection (2) and paragraph  
463 (f) of subsection (4) of section 121.4501, Florida Statutes, are  
464 amended to read:

465 121.4501 Florida Retirement System Investment Plan.—

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

467 (e) "Eligible employee" means an officer or employee, as  
468 defined in s. 121.021, who:

469 1. Is a member of, or is eligible for membership in, the  
470 Florida Retirement System, including any renewed member of the  
471 Florida Retirement System initially enrolled before July 1,  
472 2010; or

473 2. Participates in, or is eligible to participate in, the  
474 Senior Management Service Optional Annuity Program as  
475 established under s. 121.055(6), the State Community College  
476 System Optional Retirement Program as established under s.  
477 121.051(2)(c), or the State University System Optional



833344

478 Retirement Program established under s. 121.35.

479

480 The term does not include any member participating in the  
481 Deferred Retirement Option Program established under s.  
482 121.091(13), a retiree of a state-administered retirement system  
483 initially reemployed in a regularly established position on or  
484 after July 1, 2010, or a mandatory participant of the State  
485 University System Optional Retirement Program established under  
486 s. 121.35.

487 (4) PARTICIPATION; ENROLLMENT.—

488 (f) A member of the investment plan who takes a  
489 distribution of any contributions from his or her investment  
490 plan account is considered a retiree. A retiree who is initially  
491 reemployed in a regularly established position on or after July  
492 1, 2010, is not eligible to be enrolled in ~~for~~ renewed  
493 membership.

494 Section 10. Section 121.591, Florida Statutes, is amended  
495 to read:

496 121.591 Payment of benefits.—Benefits may not be paid under  
497 the Florida Retirement System Investment Plan unless the member  
498 has terminated employment as provided in s. 121.021(39) (a) or is  
499 deceased and a proper application has been filed as prescribed  
500 by the state board or the department. ~~Before termination of~~  
501 ~~employment,~~ Benefits, including employee contributions, are not  
502 payable under the investment plan for employee hardships,  
503 unforeseeable emergencies, loans, medical expenses, educational  
504 expenses, purchase of a principal residence, payments necessary  
505 to prevent eviction or foreclosure on an employee's principal  
506 residence, or any other reason except a requested distribution



833344

507 for retirement, a mandatory de minimis distribution authorized  
508 by the administrator, or a required minimum distribution  
509 provided pursuant to the Internal Revenue Code ~~prior to~~  
510 ~~termination from all employment relationships with participating~~  
511 ~~employers.~~ The state board or department, as appropriate, may  
512 cancel an application for retirement benefits if the member or  
513 beneficiary fails to timely provide the information and  
514 documents required by this chapter and the rules of the state  
515 board and department. In accordance with their respective  
516 responsibilities, the state board and the department shall adopt  
517 rules establishing procedures for application for retirement  
518 benefits and for the cancellation of such application if the  
519 required information or documents are not received. The state  
520 board and the department, as appropriate, are authorized to cash  
521 out a de minimis account of a member who has been terminated  
522 from Florida Retirement System covered employment for a minimum  
523 of 6 calendar months. A de minimis account is an account  
524 containing employer and employee contributions and accumulated  
525 earnings of not more than \$5,000 made under the provisions of  
526 this chapter. Such cash-out must be a complete lump-sum  
527 liquidation of the account balance, subject to the provisions of  
528 the Internal Revenue Code, or a lump-sum direct rollover  
529 distribution paid directly to the custodian of an eligible  
530 retirement plan, as defined by the Internal Revenue Code, on  
531 behalf of the member. Any nonvested accumulations and associated  
532 service credit, including amounts transferred to the suspense  
533 account of the Florida Retirement System Investment Plan Trust  
534 Fund authorized under s. 121.4501(6), shall be forfeited upon  
535 payment of any vested benefit to a member or beneficiary, except



833344

536 for de minimis distributions or minimum required distributions  
537 as provided under this section. If any financial instrument  
538 issued for the payment of retirement benefits under this section  
539 is not presented for payment within 180 days after the last day  
540 of the month in which it was originally issued, the third-party  
541 administrator or other duly authorized agent of the state board  
542 shall cancel the instrument and credit the amount of the  
543 instrument to the suspense account of the Florida Retirement  
544 System Investment Plan Trust Fund authorized under s.  
545 121.4501(6). Any amounts transferred to the suspense account are  
546 payable upon a proper application, not to include earnings  
547 thereon, as provided in this section, within 10 years after the  
548 last day of the month in which the instrument was originally  
549 issued, after which time such amounts and any earnings  
550 attributable to employer contributions shall be forfeited. Any  
551 forfeited amounts are assets of the trust fund and are not  
552 subject to chapter 717.

553 (1) NORMAL BENEFITS.—Under the investment plan:

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

557 1. Benefits are payable only to a member, an alternate  
558 payee of a qualified domestic relations order, or a beneficiary.

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

562 3. The member must be terminated from all employment with  
563 all Florida Retirement System employers, as provided in s.  
564 121.021(39).



833344

565           4. Benefit payments may not be made until the member has  
566 been terminated for 3 calendar months, except that the state  
567 board may authorize by rule for the distribution of up to 10  
568 percent of the member's account after being terminated for 1  
569 calendar month if the member has reached the normal retirement  
570 date as defined in s. 121.021.

571           5. If a member or former member of the Florida Retirement  
572 System receives an invalid distribution, such person must either  
573 repay the full amount within 90 days after receipt of final  
574 notification by the state board or the third-party administrator  
575 that the distribution was invalid, or, in lieu of repayment, the  
576 member must terminate employment from all participating  
577 employers. If such person fails to repay the full invalid  
578 distribution within 90 days after receipt of final notification,  
579 the person may be deemed retired from the investment plan by the  
580 state board and is subject to s. 121.122. If such person is  
581 deemed retired, any joint and several liability set out in s.  
582 121.091(9)(d)2. is void, and the state board, the department, or  
583 the employing agency is not liable for gains on payroll  
584 contributions that have not been deposited to the person's  
585 account in the investment plan, pending resolution of the  
586 invalid distribution. The member or former member who has been  
587 deemed retired or who has been determined by the state board to  
588 have taken an invalid distribution may appeal the agency  
589 decision through the complaint process as provided under s.  
590 121.4501(9)(g)3. As used in this subparagraph, the term "invalid  
591 distribution" means any distribution from an account in the  
592 investment plan which is taken in violation of this section, s.  
593 121.091(9), or s. 121.4501.



833344

594 (b) If a member elects to receive his or her benefits upon  
595 termination of employment as defined in s. 121.021, the member  
596 must submit a written application or an application by  
597 electronic means to the third-party administrator indicating his  
598 or her preferred distribution date and selecting an authorized  
599 method of distribution as provided in paragraph (c). The member  
600 may defer receipt of benefits until he or she chooses to make  
601 such application, subject to federal requirements.

602 (c) Upon receipt by the third-party administrator of a  
603 properly executed application for distribution of benefits, the  
604 total accumulated benefit is payable to the member pro rata  
605 across all Florida Retirement System benefit sources as:

- 606 1. A lump-sum or partial distribution to the member;  
607 2. A lump-sum direct rollover distribution whereby all  
608 accrued benefits, plus interest and investment earnings, are  
609 paid from the member's account directly to the custodian of an  
610 eligible retirement plan, as defined in s. 402(c)(8)(B) of the  
611 Internal Revenue Code, on behalf of the member; or  
612 3. Periodic distributions, as authorized by the state  
613 board.

614 (d) The distribution payment method selected by the member  
615 or beneficiary, and the retirement of the member or beneficiary,  
616 is final and irrevocable at the time a benefit distribution  
617 payment is cashed, deposited, or transferred to another  
618 financial institution. Any additional service that remains  
619 unclaimed at retirement may not be claimed or purchased, and the  
620 type of retirement may not be changed, except that if a member  
621 recovers from a disability, the member may subsequently request  
622 benefits under subsection (2).



833344

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

626 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided under  
627 this subsection are payable in lieu of the benefits that would  
628 otherwise be payable under the provisions of subsection (1).  
629 Such benefits must be funded from employer contributions made  
630 under s. 121.571, transferred employee contributions and funds  
631 accumulated pursuant to paragraph (a), and interest and earnings  
632 thereon.

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

635 1. All moneys accumulated in the member's account,  
636 including vested and nonvested accumulations as described in s.  
637 121.4501(6), must be transferred from such individual accounts  
638 to the division for deposit in the disability account of the  
639 Florida Retirement System Trust Fund. Such moneys must be  
640 accounted for separately. Earnings must be credited on an annual  
641 basis for amounts held in the disability accounts of the Florida  
642 Retirement System Trust Fund based on actual earnings of the  
643 trust fund.

644 2. If the member has retained retirement credit earned  
645 under the pension plan as provided in s. 121.4501(3), a sum  
646 representing the actuarial present value of such credit within  
647 the Florida Retirement System Trust Fund shall be reassigned by  
648 the division from the pension plan to the disability program as  
649 implemented under this subsection and shall be deposited in the  
650 disability account of the trust fund. Such moneys must be  
651 accounted for separately.



833344

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

653 1. A member of the investment plan who becomes totally and  
654 permanently disabled, as defined in paragraph (d), after  
655 completing 8 years of creditable service, or a member who  
656 becomes totally and permanently disabled in the line of duty  
657 regardless of length of service, is entitled to a monthly  
658 disability benefit.

659 2. In order for service to apply toward the 8 years of  
660 creditable service required for regular disability benefits, or  
661 toward the creditable service used in calculating a service-  
662 based benefit as provided under paragraph (g), the service must  
663 be creditable service as described below:

664 a. The member's period of service under the investment plan  
665 shall be considered creditable service, except as provided in  
666 subparagraph d.

667 b. If the member has elected to retain credit for service  
668 under the pension plan as provided under s. 121.4501(3), all  
669 such service shall be considered creditable service.

670 c. If the member elects to transfer to his or her member  
671 accounts a sum representing the present value of his or her  
672 retirement credit under the pension plan as provided under s.  
673 121.4501(3), the period of service under the pension plan  
674 represented in the present value amounts transferred shall be  
675 considered creditable service, except as provided in  
676 subparagraph d.

677 d. If a member has terminated employment and has taken  
678 distribution of his or her funds as provided in subsection (1),  
679 all creditable service represented by such distributed funds is  
680 forfeited for purposes of this subsection.





833344

681           (c) *Disability retirement effective date.*—The effective  
682 retirement date for a member who applies and is approved for  
683 disability retirement shall be established as provided under s.  
684 121.091(4) (a)2. and 3.

685           (d) *Total and permanent disability.*—A member shall be  
686 considered totally and permanently disabled if, in the opinion  
687 of the division, he or she is prevented, by reason of a  
688 medically determinable physical or mental impairment, from  
689 rendering useful and efficient service as an officer or  
690 employee.

691           (e) *Proof of disability.*— Before approving payment of any  
692 disability retirement benefit, the division shall require proof  
693 that the member is totally and permanently disabled as provided  
694 under s. 121.091(4) (c).

695           (f) *Disability retirement benefit.*—Upon the disability  
696 retirement of a member under this subsection, the member shall  
697 receive a monthly benefit that begins accruing on the first day  
698 of the month of disability retirement, as approved by the  
699 division, and is payable on the last day of that month and each  
700 month thereafter during his or her lifetime and continued  
701 disability. All disability benefits must be paid out of the  
702 disability account of the Florida Retirement System Trust Fund  
703 established under this subsection.

704           (g) *Computation of disability retirement benefit.*—The  
705 amount of each monthly payment must be calculated as provided  
706 under s. 121.091(4) (f). Creditable service under both the  
707 pension plan and the investment plan shall be applicable as  
708 provided under paragraph (b).

709           (h) *Reapplication.*—A member whose initial application for



833344

710 disability retirement is denied may reapply for disability  
711 benefits as provided in s. 121.091(4)(g).

712 (i) *Membership.*—Upon approval of a member’s application for  
713 disability benefits, the member shall be transferred to the  
714 pension plan, effective upon his or her disability retirement  
715 effective date.

716 (j) *Option to cancel.*—A member whose application for  
717 disability benefits is approved may cancel the application if  
718 the cancellation request is received by the division before a  
719 disability retirement warrant has been deposited, cashed, or  
720 received by direct deposit. Upon cancellation:

721 1. The member’s transfer to the pension plan under  
722 paragraph (i) shall be nullified;

723 2. The member shall be retroactively reinstated in the  
724 investment plan without hiatus;

725 3. All funds transferred to the Florida Retirement System  
726 Trust Fund under paragraph (a) must be returned to the member  
727 accounts from which the funds were drawn; and

728 4. The member may elect to receive the benefit payable  
729 under subsection (1) in lieu of disability benefits.

730 (k) *Recovery from disability.*—

731 1. The division may require periodic reexaminations at the  
732 expense of the disability program account of the Florida  
733 Retirement System Trust Fund. Except as provided in subparagraph  
734 2., all other matters relating to recovery from disability shall  
735 be as provided under s. 121.091(4)(h).

736 2. Upon recovery from disability, the recipient of  
737 disability retirement benefits under this subsection shall be a  
738 compulsory member of the investment plan. The net difference



833344

739 between the recipient's original account balance transferred to  
740 the Florida Retirement System Trust Fund, including earnings and  
741 total disability benefits paid to such recipient, if any, shall  
742 be determined as provided in sub-subparagraph a.

743 a. An amount equal to the total benefits paid shall be  
744 subtracted from that portion of the transferred account balance  
745 consisting of vested accumulations as described under s.  
746 121.4501(6), if any, and an amount equal to the remainder of  
747 benefit amounts paid, if any, shall be subtracted from any  
748 remaining nonvested accumulations.

749 b. Amounts subtracted under sub-subparagraph a. must be  
750 retained within the disability account of the Florida Retirement  
751 System Trust Fund. Any remaining account balance shall be  
752 transferred to the third-party administrator for disposition as  
753 provided under sub-subparagraph c. or sub-subparagraph d., as  
754 appropriate.

755 c. If the recipient returns to covered employment,  
756 transferred amounts must be deposited in individual accounts  
757 under the investment plan, as directed by the member. Vested and  
758 nonvested amounts shall be accounted for separately as provided  
759 in s. 121.4501(6).

760 d. If the recipient fails to return to covered employment  
761 upon recovery from disability:

762 (I) Any remaining vested amount must be deposited in  
763 individual accounts under the investment plan, as directed by  
764 the member, and is payable as provided in subsection (1).

765 (II) Any remaining nonvested amount must be held in a  
766 suspense account and is forfeitable after 5 years as provided in  
767 s. 121.4501(6).



833344

768           3. If present value was reassigned from the pension plan to  
769 the disability program as provided under subparagraph (a)2., the  
770 full present value amount must be returned to the defined  
771 benefit account within the Florida Retirement System Trust Fund  
772 and the member's associated retirement credit under the pension  
773 plan must be reinstated in full. Any benefit based upon such  
774 credit must be calculated as provided in s. 121.091(4)(h)1.

775           (1) *Nonadmissible causes of disability.*—A member is not  
776 entitled to a disability retirement benefit if the disability  
777 results from any injury or disease as described in s.  
778 121.091(4)(i).

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

781           1. If a member is a justice of the Supreme Court, judge of  
782 a district court of appeal, circuit judge, or judge of a county  
783 court who has served for the years equal to, or greater than,  
784 the vesting requirement in s. 121.021(45) as an elected  
785 constitutional judicial officer, including service as a judicial  
786 officer in any court abolished pursuant to Art. V of the State  
787 Constitution, and who is retired for disability pursuant to s.  
788 12, Art. V of the State Constitution, the member's Option 1  
789 monthly disability benefit amount as provided in s.

790 121.091(6)(a)1. shall be two-thirds of his or her monthly  
791 compensation as of the member's disability retirement date. The  
792 member may alternatively elect to receive an actuarially  
793 adjusted disability retirement benefit under any other option as  
794 provided in s. 121.091(6)(a) or to receive the normal benefit  
795 payable under subsection (1).

796           2. If any justice or judge who is a member of the



833344

797 investment plan is retired for disability pursuant to s. 12,  
798 Art. V of the State Constitution and elects to receive a monthly  
799 disability benefit under the provisions of this paragraph:

800 a. Any present value amount that was transferred to his or  
801 her investment plan account and all employer and employee  
802 contributions made to such account on his or her behalf, plus  
803 interest and earnings thereon, must be transferred to and  
804 deposited in the disability account of the Florida Retirement  
805 System Trust Fund; and

806 b. The monthly disability benefits payable under this  
807 paragraph shall be paid from the disability account of the  
808 Florida Retirement System Trust Fund.

809 (n) *Death of retiree or beneficiary.*—Upon the death of a  
810 disabled retiree or beneficiary of the retiree who is receiving  
811 monthly disability benefits under this subsection, the monthly  
812 benefits shall be paid through the last day of the month of  
813 death and shall terminate, or be adjusted, if applicable, as of  
814 that date in accordance with the optional form of benefit  
815 selected at the time of retirement. The department may adopt  
816 rules necessary to administer this paragraph.

817 (3) DEATH BENEFITS.—Under the Florida Retirement System  
818 Investment Plan:

819 (a) Survivor benefits are payable in accordance with the  
820 following terms and conditions:

821 1. To the extent vested, benefits are payable only to a  
822 member's beneficiary or beneficiaries as designated by the  
823 member as provided in s. 121.4501(20).

824 2. Benefits shall be paid by the third-party administrator  
825 or designated approved providers in accordance with the law, the



833344

826 contracts, and any applicable state board rule or policy.

827 3. To receive benefits, the member must be deceased.

828 (b) In the event of a member's death, all vested  
829 accumulations as described in s. 121.4501(6), less withholding  
830 taxes remitted to the Internal Revenue Service, shall be  
831 distributed, as provided in paragraph (c) or as described in s.  
832 121.4501(20), as if the member retired on the date of death. No  
833 other death benefits are available for survivors of members,  
834 except for benefits, or coverage for benefits, as are otherwise  
835 provided by law or separately provided by the employer, at the  
836 employer's discretion.

837 (c) Upon receipt by the third-party administrator of a  
838 properly executed application for distribution of benefits, the  
839 total accumulated benefit is payable by the third-party  
840 administrator to the member's surviving beneficiary or  
841 beneficiaries, as:

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

844 2. An eligible rollover distribution, if permitted, on  
845 behalf of the surviving spouse of a deceased member, whereby all  
846 accrued benefits, plus interest and investment earnings, are  
847 paid from the deceased member's account directly to the  
848 custodian of an eligible retirement plan, as described in s.  
849 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
850 surviving spouse; or

851 3. A partial lump-sum payment whereby a portion of the  
852 accrued benefit is paid to the deceased member's surviving  
853 spouse or other designated beneficiaries, less withholding taxes  
854 remitted to the Internal Revenue Service, and the remaining



833344

855 amount is transferred directly to the custodian of an eligible  
856 retirement plan, if permitted, as described in s. 402(c)(8)(B)  
857 of the Internal Revenue Code, on behalf of the surviving spouse.  
858 The proportions must be specified by the member or the surviving  
859 beneficiary.

860  
861 This paragraph does not abrogate other applicable provisions of  
862 state or federal law providing for payment of death benefits.

863 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to  
864 any person under the Florida Retirement System Investment Plan,  
865 and any contributions accumulated under the plan, are not  
866 subject to assignment, execution, attachment, or any legal  
867 process, except for qualified domestic relations orders by a  
868 court of competent jurisdiction, income deduction orders as  
869 provided in s. 61.1301, and federal income tax levies.

870 Section 11. Paragraph (b) of subsection (5) and subsection  
871 (7) of section 1012.875, Florida Statutes, are amended to read:

872 1012.875 State Community College System Optional Retirement  
873 Program.—Each Florida College System institution may implement  
874 an optional retirement program, if such program is established  
875 therefor pursuant to s. 1001.64(20), under which annuity or  
876 other contracts providing retirement and death benefits may be  
877 purchased by, and on behalf of, eligible employees who  
878 participate in the program, in accordance with s. 403(b) of the  
879 Internal Revenue Code. Except as otherwise provided herein, this  
880 retirement program, which shall be known as the State Community  
881 College System Optional Retirement Program, may be implemented  
882 and administered only by an individual Florida College System  
883 institution or by a consortium of Florida College System



833344

884 institutions.

885 (5)

886 (b) Benefits are payable under the optional retirement  
887 program to program participants or their beneficiaries and paid  
888 only by the designated company in accordance with the terms of  
889 the contracts applicable to the program participant. Benefits  
890 shall accrue in individual accounts that are participant-  
891 directed, portable, and funded by employer and employee  
892 contributions and the earnings thereon. Benefit payments may not  
893 be made until the member has been terminated for 3 calendar  
894 months, except the college may authorize a distribution of up to  
895 10 percent of the member's account after the member is  
896 terminated from employment with all Florida Retirement System  
897 participating employers for 1 calendar month if the member has  
898 reached the normal retirement date as defined in s. 121.021. The  
899 board of trustees for the college may adopt rules to implement  
900 this paragraph. Benefits funded by employer and employee  
901 contributions are payable in accordance with the following terms  
902 and conditions:

903 1. Benefits shall be payable only to a participant, to his  
904 or her beneficiaries, or to his or her estate, as designated by  
905 the participant.

906 2. Benefits shall be paid by the provider company or  
907 companies in accordance with the law, the provisions of the  
908 contract, and any applicable employer rule or policy.

909 3. In the event of a participant's death, moneys  
910 accumulated by, or on behalf of, the participant, less  
911 withholding taxes remitted to the Internal Revenue Service, if  
912 any, shall be distributed to the participant's designated





833344

913 beneficiary or beneficiaries, or to the participant's estate, as  
914 if the participant retired on the date of death as provided in  
915 paragraph (d). No other death benefits are available for  
916 survivors of participants under the optional retirement program  
917 except for such benefits, or coverage for such benefits, as are  
918 separately afforded by the employer at the employer's  
919 discretion.

920 (7) Benefits, including employee contributions, are not  
921 payable for employee hardships, unforeseeable emergencies,  
922 loans, medical expenses, educational expenses, purchase of a  
923 principal residence, payments necessary to prevent eviction or  
924 foreclosure on an employee's principal residence, or any other  
925 reason except a requested distribution for retirement, a  
926 mandatory de minimis distribution authorized by the  
927 administrator, or a required minimum distribution provided  
928 pursuant to the Internal Revenue Code ~~before termination from~~  
929 ~~all employment relationships with participating employers for 3~~  
930 ~~calendar months.~~

931 Section 12. This act shall take effect July 1, 2012.

932  
933 ===== T I T L E A M E N D M E N T =====

934 And the title is amended as follows:

935 Delete everything before the enacting clause  
936 and insert:

937 A bill to be entitled  
938 An act relating to state retirement; creating s.  
939 121.012, F.S.; providing applicability; amending s.  
940 121.021, F.S.; clarifying the definitions of the terms  
941 "normal retirement date" and "vesting"; amending s.



833344

942 121.0515, F.S.; correcting a cross-reference; amending  
943 s. 121.055, F.S.; authorizing distributions to a  
944 member who is terminated from employment for 1  
945 calendar month if the member has reached the normal  
946 retirement date; providing rulemaking authority to the  
947 Department of Management Services; clarifying  
948 provisions related to the prohibition of hardship  
949 loans or payments; clarifying that a retiree who is  
950 reemployed in a regularly established position after a  
951 certain date may not be enrolled as a renewed member;  
952 amending s. 121.071, F.S.; clarifying provisions  
953 related to the prohibition of hardship loans or  
954 payments; amending s. 121.091, F.S.; making conforming  
955 changes to the Deferred Retirement Option Program  
956 regarding deferral age; amending s. 121.122, F.S.;  
957 clarifying that a retiree who is reemployed in a  
958 regularly established position after a certain date  
959 may not be enrolled as a renewed member; amending s.  
960 121.35, F.S.; providing that a benefit for the  
961 purposes of the optional retirement program for the  
962 State University System includes a certain  
963 distribution; authorizing distributions to a member  
964 who is terminated from employment for 1 calendar month  
965 if the member has reached the normal retirement date;  
966 providing rulemaking authority to the Department of  
967 Management Services; clarifying provisions related to  
968 the prohibition of hardship loans or payments;  
969 clarifying when voluntary contributions may be paid  
970 out; amending s. 121.4501, F.S.; specifying that the



833344

971 definition of the term "eligible employee" does not  
972 include certain members reemployed in regularly  
973 established positions; clarifying that a retiree who  
974 is reemployed in a regularly established position  
975 after a certain date may not be enrolled as a renewed  
976 member; amending s. 121.591, F.S.; clarifying  
977 provisions related to the prohibition of hardship  
978 loans or payments; amending s. 1012.875, F.S.;  
979 authorizing distributions to a member who is  
980 terminated from employment for 1 calendar month if the  
981 member has reached the normal retirement date;  
982 providing rulemaking authority to the boards of  
983 trustees for colleges; clarifying provisions related  
984 to the prohibition of hardship loans or payments;  
985 providing an effective date.