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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2012	.	
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The Committee on Governmental Oversight and Accountability  
(Latvala) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 46 - 461  
and insert:

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

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

(29) "Normal retirement date" means the date a member



930296

13 attains normal retirement age and is vested, which is determined  
14 as follows:

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

16 1. Before July 1, 2011:

17 a. The first day of the month the member attains age 55 and  
18 completes the years of creditable service in the Special Risk  
19 Class equal to or greater than the years of service required for  
20 vesting;

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

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

29 ~~2. If a Special Risk Class member initially enrolled~~ On or  
30 after July 1, 2011, but before July 1, 2012:

31 a. The first day of the month the member attains age 60 and  
32 completes the years of creditable service in the Special Risk  
33 Class equal to or greater than the years of service required for  
34 vesting;

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

38 c. The first day of the month following the date the member  
39 completes 30 years of creditable service and attains age 57,  
40 which service may include a maximum of 4 years of military  
41 service credit if such credit is not claimed under any other



930296

42 system and the remaining years are in the Special Risk Class.

43 3. On or after July 1, 2012:

44 a. The first day of the month the member attains age 55 and  
45 completes the years of creditable service in the Special Risk  
46 Class equal to or greater than the years of service required for  
47 vesting;

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

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

56  
57 "Normal retirement age" is attained on the "normal retirement  
58 date."

59 (45) "Vested" or "vesting" means the guarantee that a  
60 member is eligible to receive a future retirement benefit upon  
61 completion of the required years of creditable service for the  
62 employee's class of membership, even though the member may have  
63 terminated covered employment before reaching normal or early  
64 retirement date. Being vested does not entitle a member to a  
65 disability benefit. Provisions governing entitlement to  
66 disability benefits are set forth under s. 121.091(4).

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

70 (c) Any member initially enrolled in the Florida Retirement



930296

71 System on or after July 1, 2012, shall be vested upon completion  
72 of 10 years of creditable service.

73 Section 2. Paragraph (k) of subsection (3) of section  
74 121.0515, Florida Statutes, is amended to read:

75 121.0515 Special Risk Class.—

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

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

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

97 a. The ~~That this~~ physical loss or loss of use is total and  
98 permanent, unless ~~except in the event that~~ the loss of use is  
99 due to a physical injury to the member's brain, in which event



930296

100 the loss of use is permanent with at least 75 percent loss of  
101 motor function with respect to each arm or leg affected.

102 b. The ~~That~~ this physical loss or loss of use renders the  
103 member physically unable to perform the essential job functions  
104 of his or her special risk position.

105 c. ~~That~~, Notwithstanding the ~~this~~ physical loss or loss of  
106 use, the individual is able to perform the essential job  
107 functions required by the member's new position, as provided in  
108 subparagraph 3.

109 d. The ~~That~~ use of artificial limbs is ~~either~~ not possible  
110 or does not alter the member's ability to perform the essential  
111 job functions of the member's position.

112 e. ~~That~~ The physical loss or loss of use is a direct result  
113 of a physical injury and not a result of any mental,  
114 psychological, or emotional injury.

115 2. For the purposes of this paragraph, "qualifying injury"  
116 means a physical ~~an~~ injury and medical condition sustained in  
117 the line of duty, as certified by the member's employing agency,  
118 by a special risk member which ~~that~~ does not result in total and  
119 permanent disability as defined in s. 121.091(4)(b). An injury  
120 is a qualifying injury if the injury is a physical injury to the  
121 member's physical body resulting in a physical loss, or loss of  
122 use, of at least two of the following: left arm, right arm, left  
123 leg, or right leg. Notwithstanding any other provision of this  
124 section, an injury that would otherwise qualify as a qualifying  
125 injury is not ~~considered~~ a qualifying injury if and when the  
126 member ceases employment with the employer for whom he or she  
127 was providing special risk services on the date the injury  
128 occurred.



930296

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

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

143           Section 3. Paragraph (a) of subsection (3) of section  
144 121.053, Florida Statutes, is amended to read:

145           121.053 Participation in the Elected Officers' Class for  
146 retired members.—

147           (3) On or after July 1, 2010:

148           (a) A retiree of a state-administered retirement system who  
149 is elected or appointed for the first time to an elective office  
150 in a regularly established position with a covered employer may  
151 not be enrolled as a renewed member of a state-administered  
152 ~~reenroll in the Florida~~ retirement system.

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

156           121.055 Senior Management Service Class.—There is hereby  
157 established a separate class of membership within the Florida



930296

158 Retirement System to be known as the "Senior Management Service  
159 Class," which shall become effective February 1, 1987.

160 (1)

161 (f) Effective July 1, 1997:

162 1. Except as provided in subparagraph 3., an elected state  
163 officer eligible for membership in the Elected Officers' Class  
164 under s. 121.052(2)(a), (b), or (c) who elects membership in the  
165 Senior Management Service Class under s. 121.052(3)(c) may,  
166 within 6 months after assuming office, or within 6 months after  
167 ~~this act becomes a law~~ for serving elected state officers,  
168 within 6 months after May 30, 1997, elect to participate in the  
169 Senior Management Service Optional Annuity Program, as provided  
170 in subsection (6), in lieu of membership in the Senior  
171 Management Service Class.

172 2. Except as provided in subparagraph 3., an elected  
173 officer of a local agency employer eligible for membership in  
174 the Elected Officers' Class under s. 121.052(2)(d) who elects  
175 membership in the Senior Management Service Class under s.  
176 121.052(3)(c) may, within 6 months after assuming office, or  
177 ~~within 6 months after this act becomes a law~~ for serving elected  
178 officers of a local agency employer, within 6 months after May  
179 30, 1997, elect to withdraw from the Florida Retirement System,  
180 as provided in subparagraph (b)2., in lieu of membership in the  
181 Senior Management Service Class.

182 3. A retiree of a state-administered retirement system who  
183 is initially reemployed in a regularly established position on  
184 or after July 1, 2010, as an elected official eligible for the  
185 Elected Officers' Class may not be enrolled in renewed ~~renew~~  
186 membership in the Senior Management Service Class or in the



930296

187 Senior Management Service Optional Annuity Program as provided  
188 in subsection (6), and may not withdraw from the Florida  
189 Retirement System as a renewed member as provided in  
190 subparagraph (b)2., as applicable, in lieu of membership in the  
191 Senior Management Service Class.

192 (6)

193 (e) *Benefits.*—

194 1. Benefits under the Senior Management Service Optional  
195 Annuity Program are payable only to members of the program, or  
196 their beneficiaries as designated by the member in the contract  
197 with the provider company, and must be paid by the designated  
198 company in accordance with the terms of the annuity contract  
199 applicable to the member. A member must be terminated from all  
200 employment relationships with Florida Retirement System  
201 employers for 3 calendar months to begin receiving the employer-  
202 funded and employee-funded benefit. The member must meet the  
203 definition of termination in s. 121.021(39) beginning the month  
204 after receiving a benefit, including a distribution. Benefits  
205 funded by employer and employee contributions are payable under  
206 the terms of the contract to the member, his or her beneficiary,  
207 or his or her estate, in addition to:

208 a. A lump-sum payment to the beneficiary upon the death of  
209 the member;

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





930296

216 c. A mandatory distribution of a de minimis account of a  
217 former member who has been terminated for a minimum of 6  
218 calendar months from the employment that entitled him or her to  
219 optional annuity program participation as authorized by the  
220 department; or

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

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

238 3. The benefits payable to a ~~any~~ person under the Senior  
239 Management Service Optional Annuity Program, and any  
240 contribution accumulated under such program, are not subject to  
241 assignment, execution, or attachment or to any legal process  
242 ~~whatsoever.~~

243 4. Except as provided in subparagraph 5., a member who  
244 terminates employment and receives a distribution, including a



930296

245 rollover or trustee-to-trustee transfer, funded by employer and  
246 required employee contributions is a retiree of ~~deemed to be~~  
247 ~~retired from~~ a state-administered retirement system. Such  
248 retiree, who is initially reemployed in a regularly established  
249 position on or after July 1, 2010, may not be enrolled as a  
250 renewed member ~~if the member is subsequently employed with an~~  
251 ~~employer that participates in the Florida Retirement System.~~

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

256  
257 As used in this paragraph, a "de minimis account" means an  
258 account with a provider company containing employer and employee  
259 contributions and accumulated earnings of up to ~~not more than~~  
260 \$5,000 made under this chapter.

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

263 121.071 Contributions.—Contributions to the system shall be  
264 made as follows:

265 (7) ~~Before termination of employment,~~ Benefits, including  
266 employee contributions, are not payable under the pension plan  
267 for employee hardships, unforeseeable emergencies, loans,  
268 medical expenses, educational expenses, purchase of a principal  
269 residence, payments necessary to prevent eviction or foreclosure  
270 on an employee's principal residence, or any other reason except  
271 for payment of retirement benefits, a refund of employee  
272 contributions, or a minimum distribution required pursuant to  
273 the Internal Revenue Code ~~before termination from all employment~~



930296

274 ~~relationships with participating employers.~~

275 Section 6. Paragraph (a) of subsection (3) and paragraph  
276 (a) of subsection (13) of section 121.091, Florida Statutes, are  
277 amended to read:

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

291 (3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or her  
292 early retirement date, the member shall receive an immediate  
293 monthly benefit that shall begin to accrue on the first day of  
294 the month of the retirement date and be payable on the last day  
295 of that month and each month thereafter during his or her  
296 lifetime. Such benefit shall be calculated as follows:

297 (a) For a member initially enrolled:

298 1. Before July 1, 2011, the amount of each monthly payment  
299 shall be computed in the same manner as for a normal retirement  
300 benefit, in accordance with subsection (1), but shall be based  
301 on the member's average monthly compensation and creditable  
302 service as of the member's early retirement date. The benefit so



930296

303 computed shall be reduced by five-twelfths of 1 percent for each  
304 complete month by which the early retirement date precedes the  
305 normal retirement date of age 62 for a member of the Regular  
306 Class, Senior Management Service Class, or the Elected Officers'  
307 Class, and age 55 for a member of the Special Risk Class, or age  
308 52 if a Special Risk member has completed 25 years of creditable  
309 service in accordance with s. 121.021(29)(b)1.c.

310 2. On or after July 1, 2011, but before July 1, 2012, the  
311 amount of each monthly payment shall be computed in the same  
312 manner as for a normal retirement benefit, in accordance with  
313 subsection (1), but shall be based on the member's average  
314 monthly compensation and creditable service as of the member's  
315 early retirement date. The benefit so computed shall be reduced  
316 by five-twelfths of 1 percent for each complete month by which  
317 the early retirement date precedes the normal retirement date of  
318 age 65 for a member of the Regular Class, Senior Management  
319 Service Class, or the Elected Officers' Class, and age 60 for a  
320 member of the Special Risk Class, or age 57 if a Special Risk  
321 member has completed 30 years of creditable service in  
322 accordance with s. 121.021(29)(b)2.c.

323 3. On or after July 1, 2012, the amount of each monthly  
324 payment shall be computed in the same manner as a normal  
325 retirement benefit in accordance with subsection (1), but shall  
326 be based on the member's average monthly compensation and  
327 creditable service as of the member's early retirement date. The  
328 benefit so computed shall be reduced by five-twelfths of 1  
329 percent for each complete month by which the early retirement  
330 date precedes the normal retirement date of age 62 for a member  
331 of the Regular Class, Senior Management Service Class, or the



930296

332 Elected Officers' Class, and age 55 for a member of the Special  
333 Risk Class, or age 48 if a Special Risk member has completed 25  
334 years of creditable service in accordance with s.  
335 121.021(29)(b)3.c.

336 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and  
337 subject to this section, the Deferred Retirement Option Program,  
338 hereinafter referred to as DROP, is a program under which an  
339 eligible member of the Florida Retirement System may elect to  
340 participate, deferring receipt of retirement benefits while  
341 continuing employment with his or her Florida Retirement System  
342 employer. The deferred monthly benefits shall accrue in the  
343 Florida Retirement System on behalf of the member, plus interest  
344 compounded monthly, for the specified period of the DROP  
345 participation, as provided in paragraph (c). Upon termination of  
346 employment, the member shall receive the total DROP benefits and  
347 begin to receive the previously determined normal retirement  
348 benefits. Participation in the DROP does not guarantee  
349 employment for the specified period of DROP. Participation in  
350 DROP by an eligible member beyond the initial 60-month period as  
351 authorized in this subsection shall be on an annual contractual  
352 basis for all participants.

353 (a) *Eligibility of member to participate in DROP.*—All  
354 active Florida Retirement System members in a regularly  
355 established position, and all active members of the Teachers'  
356 Retirement System established in chapter 238 or the State and  
357 County Officers' and Employees' Retirement System established in  
358 chapter 122, which are consolidated within the Florida  
359 Retirement System under s. 121.011, may participate ~~are eligible~~  
360 ~~to elect participation~~ in DROP if:



930296

361 1. The member is not a renewed member under s. 121.122 or a  
362 member of the State Community College System Optional Retirement  
363 Program under s. 121.051, the Senior Management Service Optional  
364 Annuity Program under s. 121.055, or the optional retirement  
365 program for the State University System under s. 121.35.

366 2. Except as provided in subparagraph 6., for members  
367 initially enrolled before July 1, 2011, election to participate  
368 must be is made within 12 months immediately following the date  
369 on which the member first reaches normal retirement date; or,  
370 for a member who reaches normal retirement date based on service  
371 before he or she reaches age 62, or age 55 for Special Risk  
372 Class members, election to participate may be deferred to the 12  
373 months immediately following the date the member attains age 57,  
374 or age 52 for Special Risk Class members. Except as provided in  
375 subparagraph 6., for members initially enrolled on or after July  
376 1, 2011, election to participate must be made within the 12  
377 months immediately following the date on which the member first  
378 reaches normal retirement date; or, for a member who reaches  
379 normal retirement date based on service before he or she reaches  
380 age 65, or age 60 for Special Risk Class members, election to  
381 participate may be deferred to the 12 months immediately  
382 following the date the member attains age 60, or age 55 for  
383 Special Risk Class members. A member who delays DROP  
384 participation during the 12-month period immediately following  
385 his or her maximum DROP deferral date, ~~except as provided in~~  
386 ~~subparagraph 6.~~ loses a month of DROP participation for each  
387 month delayed. A member who fails to make an election within the  
388 12-month limitation period forfeits all rights to participate in  
389 DROP. The member shall advise his or her employer and the



930296

390 division in writing of the date DROP begins. The beginning date  
391 may be subsequent to the 12-month election period but must be  
392 within the original 60-month participation period provided in  
393 subparagraph (b)1. When establishing eligibility to participate  
394 in DROP, the member may elect to include or exclude any optional  
395 service credit purchased by the member from the total service  
396 used to establish the normal retirement date. A member who has  
397 dual normal retirement dates may ~~is eligible to elect to~~  
398 participate in DROP after attaining normal retirement date in  
399 either class.

400 3. The employer of a member electing to participate in  
401 DROP, or employers if dually employed, shall acknowledge in  
402 writing to the division the date the member's participation in  
403 DROP begins and the date the member's employment and DROP  
404 participation terminates.

405 4. Simultaneous employment of a member by additional  
406 Florida Retirement System employers subsequent to the  
407 commencement of a member's participation in DROP is permissible  
408 if such employers acknowledge in writing a DROP termination date  
409 no later than the member's existing termination date or the  
410 maximum participation period provided in subparagraph (b)1.

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

413 a. The A change of employment takes place without a break  
414 in service so that the member receives salary for each month of  
415 continuous DROP participation. If a member receives no salary  
416 during a month, DROP participation ceases unless the employer  
417 verifies a continuation of the employment relationship for such  
418 member pursuant to s. 121.021(39)(b).



930296

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

421           c. The new employer acknowledges, in writing, the member's  
422 DROP termination date, which may be extended but not beyond the  
423 maximum participation period provided in subparagraph (b)1.,  
424 acknowledges liability for any additional retirement  
425 contributions and interest required if the member fails to  
426 timely terminate employment, and is subject to the adjustment  
427 required in sub-subparagraph (c)5.d.

428           6. Effective July 1, 2001, for instructional personnel as  
429 defined in s. 1012.01(2), election to participate in DROP may be  
430 made at any time following the date on which the member first  
431 reaches normal retirement date. The member shall advise his or  
432 her employer and the division in writing of the date on which  
433 DROP begins. When establishing eligibility of the member to  
434 participate in DROP for the 60-month participation period  
435 provided in subparagraph (b)1., the member may elect to include  
436 or exclude any optional service credit purchased by the member  
437 from the total service used to establish the normal retirement  
438 date. A member who has dual normal retirement dates is eligible  
439 to elect to participate in either class.

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

442           121.122 Renewed membership in system.-

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

447           Section 8. Paragraphs (a), (b), (g), and (h) of subsection





448 (5) of section 121.35, Florida Statutes, are amended to read:  
449 121.35 Optional retirement program for the State University  
450 System.—

451 (5) BENEFITS.—

452 (a) Benefits are payable under the optional retirement  
453 program only to vested members participating in the program, or  
454 their beneficiaries as designated by the member in the contract  
455 with a provider company, and such benefits shall be paid only by  
456 the designated company in accordance with s. 403(b) of the  
457 Internal Revenue Code and the terms of the annuity or investment  
458 contract ~~or contracts~~ applicable to the member. Benefits accrue  
459 in individual accounts that are member-directed, portable, and  
460 funded by employer and employee contributions and the earnings  
461 thereon. The member must be terminated for 3 calendar months  
462 from all employment relationships with all Florida Retirement  
463 System employers to begin receiving the benefit. Benefits funded  
464 by employer and employee contributions are payable in accordance  
465 with the following terms and conditions:

466 1. Benefits shall be paid only to a participating member,  
467 to his or her beneficiaries, or to his or her estate, as  
468 designated by the member.

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

472 3. In the event of a member's death, moneys accumulated by,  
473 or on behalf of, the member, less withholding taxes remitted to  
474 the Internal Revenue Service, if any, shall be distributed to  
475 the member's designated beneficiary or beneficiaries, or to the  
476 member's estate, as if the member retired on the date of death,



930296

477 as provided in paragraph (d). No other death benefits are  
478 available to survivors of members under the optional retirement  
479 program except for such benefits, or coverage for such benefits,  
480 as are separately afforded by the employer, at the employer's  
481 discretion.

482 (b) Benefits, including employee contributions, are not  
483 payable for employee hardships, unforeseeable emergencies,  
484 loans, medical expenses, educational expenses, purchase of a  
485 principal residence, payments necessary to prevent eviction or  
486 foreclosure on an employee's principal residence, or any other  
487 reason except for a requested distribution for retirement, a  
488 mandatory de minimis distribution authorized by the  
489 administrator, or a minimum distribution required pursuant to  
490 the Internal Revenue Code before termination from all employment  
491 relationships with participating employers for 3 calendar  
492 months.

493 (g) Benefits funded by the participating member's voluntary  
494 personal contributions may be paid out after termination of  
495 employment from all participating employers for 3 calendar  
496 months at any time and in any form within the limits provided in  
497 the contract between the member and the provider company. The  
498 member shall notify the provider company regarding the date and  
499 provisions under which he or she wants to receive the employee-  
500 funded portion of the plan.

501 (h) For purposes of this section, the term:

502 1. "Benefit" means a distribution requested by the member  
503 or surviving beneficiary funded in part or in whole by the  
504 employer or required employee contributions, plus earnings, and  
505 includes rolling a distribution over to another qualified plan.



930296

506           2. "Retiree" means a former participating member of the  
507 optional retirement program who has terminated employment and  
508 has taken a distribution as provided in this subsection, except  
509 for a mandatory distribution of a de minimis account authorized  
510 by the department.

511           Section 9. Paragraph (e) of subsection (2) and subsection  
512 (4) of section 121.4501, Florida Statutes, are amended to read:

513           121.4501 Florida Retirement System Investment Plan.—

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

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

517           1. Is a member of, or is eligible for membership in, the  
518 Florida Retirement System, including any renewed member of the  
519 Florida Retirement System initially enrolled before July 1,  
520 2010; or

521           2. Participates in, or is eligible to participate in, the  
522 Senior Management Service Optional Annuity Program ~~as~~  
523 established under s. 121.055(6), the State Community College  
524 System Optional Retirement Program ~~as~~ established under s.  
525 121.051(2)(c), or the State University System Optional  
526 Retirement Program established under s. 121.35.

527  
528 The term does not include a ~~any~~ member participating in the  
529 Deferred Retirement Option Program established under s.  
530 121.091(13), a retiree of a state-administered retirement system  
531 initially reemployed in a regularly established position on or  
532 after July 1, 2010, or a mandatory participant of the State  
533 University System Optional Retirement Program established under  
534 s. 121.35.



930296

535 (4) PARTICIPATION; ENROLLMENT.—

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

539 a. Any such employee may elect to participate in the  
540 investment plan in lieu of retaining his or her membership in  
541 the pension plan. The election must be made in writing or by  
542 electronic means and must be filed with the third-party  
543 administrator by August 31, 2002, or, in the case of an active  
544 employee who is on a leave of absence on April 1, 2002, by the  
545 last business day of the 5th month following the month the leave  
546 of absence concludes. This election is irrevocable, except as  
547 provided in paragraph (g). Upon making such election, the  
548 employee shall be enrolled as a member of the investment plan,  
549 the employee's membership in the Florida Retirement System is  
550 governed by the provisions of this part, and the employee's  
551 membership in the pension plan terminates. The employee's  
552 enrollment in the investment plan is effective the first day of  
553 the month for which a full month's employer contribution is made  
554 to the investment plan.

555 b. Any such employee who fails to elect to participate in  
556 the investment plan within the prescribed time period is deemed  
557 to have elected to retain membership in the pension plan, and  
558 the employee's option to elect to participate in the investment  
559 plan is forfeited.

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



930296

564           a. Any such employee shall, by default, be enrolled in the  
565 pension plan at the commencement of employment, and may, by the  
566 last business day of the 5th month following the employee's  
567 month of hire, elect to participate in the investment plan. The  
568 employee's election must be made in writing or by electronic  
569 means and must be filed with the third-party administrator. The  
570 election to participate in the investment plan is irrevocable,  
571 except as provided in paragraph (g).

572           b. If the employee files such election within the  
573 prescribed time period, enrollment in the investment plan is  
574 effective on the first day of employment. The retirement  
575 contributions paid through the month of the employee plan change  
576 shall be transferred to the investment program, and, effective  
577 the first day of the next month, the employer and employee must  
578 pay the applicable contributions based on the employee  
579 membership class in the program.

580           c. An employee who fails to elect to participate in the  
581 investment plan within the prescribed time period is deemed to  
582 have elected to retain membership in the pension plan, and the  
583 employee's option to elect to participate in the investment plan  
584 is forfeited.

585           3. With respect to employees who become eligible to  
586 participate in the investment plan pursuant to s.  
587 121.051(2)(c)3. or s. 121.35(3)(i), the employee may elect to  
588 participate in the investment plan in lieu of retaining his or  
589 her membership in the State Community College System Optional  
590 Retirement Program or the State University System Optional  
591 Retirement Program. The election must be made in writing or by  
592 electronic means and must be filed with the third-party



930296

593 administrator. This election is irrevocable, except as provided  
594 in paragraph (g). Upon making such election, the employee shall  
595 be enrolled as a member in the investment plan, the employee's  
596 membership in the Florida Retirement System is governed by the  
597 provisions of this part, and the employee's participation in the  
598 State Community College System Optional Retirement Program or  
599 the State University System Optional Retirement Program  
600 terminates. The employee's enrollment in the investment plan is  
601 effective on the first day of the month for which a full month's  
602 employer and employee contribution is made to the investment  
603 plan.

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

608 a. The employee shall, by default, be enrolled in the  
609 investment plan at the commencement of employment, and may, by  
610 the last business day of the 12th month following the employee's  
611 month of hire, elect to participate in the pension plan. The  
612 employee's election must be made in writing or by electronic  
613 means and filed with the third-party administrator.

614 b. If the employee files such election within the  
615 prescribed time period, enrollment in the pension plan is  
616 effective on the first day of employment. The present value of  
617 his or her retirement contributions under the investment plan  
618 paid through the month of the employee plan change shall be  
619 transferred to the pension plan, and, effective the first day of  
620 the next month, the employer and employee must pay the  
621 applicable contributions based on the employee membership class



930296

622 in the pension plan.

623 c. An employee who fails to elect to participate in the  
624 pension plan within the prescribed time period is deemed to have  
625 elected to retain membership in the investment plan, and the  
626 employee's option to elect to participate in the pension plan is  
627 forfeited.

628 5.4. For purposes of this paragraph, "state employer" means  
629 any agency, board, branch, commission, community college,  
630 department, institution, institution of higher education, or  
631 water management district of the state, which participates in  
632 the Florida Retirement System for the benefit of certain  
633 employees.

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

637 a. The ~~Any such~~ employee may elect to participate in the  
638 investment plan in lieu of retaining his or her membership in  
639 the pension plan. The election must be made in writing or by  
640 electronic means and must be filed with the third-party  
641 administrator by November 30, or, in the case of an active  
642 employee who is on a leave of absence on July 1, 2002, by the  
643 last business day of the 5th month following the month the leave  
644 of absence concludes. This election is irrevocable, except as  
645 provided in paragraph (g). Upon making such election, the  
646 employee shall be enrolled as a member of the investment plan,  
647 the employee's membership in the Florida Retirement System is  
648 governed by the provisions of this part, and the employee's  
649 membership in the pension plan terminates. The employee's  
650 enrollment in the investment plan is effective the first day of



930296

651 the month for which a full month's employer contribution is made  
652 to the investment program.

653 b. An ~~Any such~~ employee who fails to elect to participate  
654 in the investment plan within the prescribed time period is  
655 deemed to have elected to retain membership in the pension plan,  
656 and the employee's option to elect to participate in the  
657 investment plan is forfeited.

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

662 a. The ~~Any such~~ employee shall, by default, be enrolled in  
663 the pension plan at the commencement of employment, and may, by  
664 the last business day of the 5th month following the employee's  
665 month of hire, elect to participate in the investment plan. The  
666 employee's election must be made in writing or by electronic  
667 means and must be filed with the third-party administrator. The  
668 election to participate in the investment plan is irrevocable,  
669 except as provided in paragraph (g).

670 b. If the employee files such election within the  
671 prescribed time period, enrollment in the investment plan is  
672 effective on the first day of employment. The employer  
673 retirement contributions paid through the month of the employee  
674 plan change shall be transferred to the investment plan, and,  
675 effective the first day of the next month, the employer shall  
676 pay the applicable contributions based on the employee  
677 membership class in the investment plan.

678 c. An ~~Any such~~ employee who fails to elect to participate  
679 in the investment plan within the prescribed time period is





930296

680 deemed to have elected to retain membership in the pension plan,  
681 and the employee's option to elect to participate in the  
682 investment plan is forfeited.

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

687 a. The employee shall, by default, be enrolled in the  
688 investment plan at the commencement of employment, and may, by  
689 the last business day of the 12th month following the employee's  
690 month of hire, elect to participate in the pension plan. The  
691 employee's election must be made in writing or by electronic  
692 means and filed with the third-party administrator.

693 b. If the employee files such election within the  
694 prescribed time period, enrollment in the pension plan is  
695 effective on the first day of employment. The present value of  
696 his or her retirement contributions under the investment plan  
697 paid through the month of the employee plan change shall be  
698 transferred to the pension plan, and, effective the first day of  
699 the next month, the employer shall pay the applicable  
700 contributions based on the employee membership class in the  
701 pension plan.

702 c. An employee who fails to elect to participate in the  
703 pension plan within the prescribed time period is deemed to have  
704 elected to retain membership in the investment plan, and the  
705 employee's option to elect to participate in the pension plan is  
706 forfeited.

707 4.3. For purposes of this paragraph, "district school board  
708 employer" means any district school board that participates in



930296

709 the Florida Retirement System for the benefit of certain  
710 employees, or a charter school or charter technical career  
711 center that participates in the Florida Retirement System as  
712 provided in s. 121.051(2) (d).

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

716 a. The ~~Any such~~ employee may elect to participate in the  
717 investment plan in lieu of retaining his or her membership in  
718 the pension plan. The election must be made in writing or by  
719 electronic means and must be filed with the third-party  
720 administrator by February 28, 2003, or, in the case of an active  
721 employee who is on a leave of absence on October 1, 2002, by the  
722 last business day of the 5th month following the month the leave  
723 of absence concludes. This election is irrevocable, except as  
724 provided in paragraph (g). Upon making such election, the  
725 employee shall be enrolled as a participant of the investment  
726 plan, the employee's membership in the Florida Retirement System  
727 is governed by the provisions of this part, and the employee's  
728 membership in the pension plan terminates. The employee's  
729 enrollment in the investment plan is effective the first day of  
730 the month for which a full month's employer contribution is made  
731 to the investment plan.

732 b. An ~~Any such~~ employee who fails to elect to participate  
733 in the investment plan within the prescribed time period is  
734 deemed to have elected to retain membership in the pension plan,  
735 and the employee's option to elect to participate in the  
736 investment plan is forfeited.

737 2. With respect to employees who become eligible to



930296

738 participate in the investment plan by reason of employment in a  
739 regularly established position with a local employer commencing  
740 after October 1, 2002, but before July 1, 2012:

741 a. The ~~Any such~~ employee shall, by default, be enrolled in  
742 the pension plan at the commencement of employment, and may, by  
743 the last business day of the 5th month following the employee's  
744 month of hire, elect to participate in the investment plan. The  
745 employee's election must be made in writing or by electronic  
746 means and must be filed with the third-party administrator. The  
747 election to participate in the investment plan is irrevocable,  
748 except as provided in paragraph (g).

749 b. If the employee files such election within the  
750 prescribed time period, enrollment in the investment plan is  
751 effective on the first day of employment. The employer  
752 retirement contributions paid through the month of the employee  
753 plan change shall be transferred to the investment plan, and,  
754 effective the first day of the next month, the employer shall  
755 pay the applicable contributions based on the employee  
756 membership class in the investment plan.

757 c. An ~~Any such~~ employee who fails to elect to participate  
758 in the investment plan within the prescribed time period is  
759 deemed to have elected to retain membership in the pension plan,  
760 and the employee's option to elect to participate in the  
761 investment plan is forfeited.

762 3. With respect to employees who become eligible to  
763 participate in the investment plan by reason of employment in a  
764 regularly established position with a local employer commencing  
765 on or after July 1, 2012:

766 a. The employee shall, by default, be enrolled in the



930296

767 investment plan at the commencement of employment, and may, by  
768 the last business day of the 12th month following the employee's  
769 month of hire, elect to participate in the pension plan. The  
770 employee's election must be made in writing or by electronic  
771 means and must be filed with the third-party administrator.

772 b. If the employee files such election within the  
773 prescribed time period, enrollment in the pension plan is  
774 effective on the first day of employment. The present value of  
775 his or her employer retirement contributions under the  
776 investment plan paid through the month of the employee plan  
777 change shall be transferred to the pension plan, and, effective  
778 the first day of the next month, the employer shall pay the  
779 applicable contributions based on the employee membership class  
780 in the pension plan.

781 c. An employee who fails to elect to participate in the  
782 pension plan within the prescribed time period is deemed to have  
783 elected to retain membership in the investment plan, and the  
784 employee's option to elect to participate in the pension plan is  
785 forfeited.

786 4.3. For purposes of this paragraph, "local employer" means  
787 any employer not included in paragraph (a) or paragraph (b).

788 (d) Contributions available for self-direction by a member  
789 who has not selected one or more specific investment products  
790 shall be allocated as prescribed by the state board. The third-  
791 party administrator shall notify the member at least quarterly  
792 that the member should take an affirmative action to make an  
793 asset allocation among the investment products.

794 (e) On or after July 1, 2011, a member of the pension plan  
795 who obtains a refund of employee contributions retains his or



930296

796 her prior plan choice upon return to employment in a regularly  
797 established position with a participating employer.

798 (f) A member of the investment plan who takes a  
799 distribution of any contributions from his or her investment  
800 plan account is considered a retiree. A retiree who is initially  
801 reemployed on or after July 1, 2010, is not eligible for renewed  
802 membership.

803 (g) After the period during which an eligible employee had  
804 the choice to elect the pension plan or the investment plan, or  
805 the month following the receipt of the eligible employee's plan  
806 election, if sooner, the employee shall have one opportunity, at  
807 the employee's discretion, to choose to move from the pension  
808 plan to the investment plan or from the investment plan to the  
809 pension plan. However, employees initially enrolled in the  
810 investment plan on or after July 1, 2012, may not move from the  
811 investment plan to the pension plan after the close of the  
812 initial prescribed time period to do so. Eligible employees may  
813 elect to move between plans only if they are earning service  
814 credit in an employer-employee relationship consistent with s.  
815 121.021(17)(b), excluding leaves of absence without pay.  
816 Effective July 1, 2005, such elections are effective on the  
817 first day of the month following the receipt of the election by  
818 the third-party administrator and are not subject to the  
819 requirements regarding an employer-employee relationship or  
820 receipt of contributions for the eligible employee in the  
821 effective month, except when the election is received by the  
822 third-party administrator. This paragraph is contingent upon  
823 approval by the Internal Revenue Service.

824 1. If the employee chooses to move to the investment plan,



825 the provisions of subsection (3) govern the transfer.

826       2. If the employee chooses to move to the pension plan, the  
827 employee must transfer from his or her investment plan account,  
828 and from other employee moneys as necessary, a sum representing  
829 the present value of that employee's accumulated benefit  
830 obligation immediately following the time of such movement,  
831 determined assuming that attained service equals the sum of  
832 service in the pension plan and service in the investment plan.  
833 Benefit commencement occurs on the first date the employee is  
834 eligible for unreduced benefits, using the discount rate and  
835 other relevant actuarial assumptions that were used to value the  
836 pension plan liabilities in the most recent actuarial valuation.  
837 For any employee who, at the time of the second election,  
838 already maintains an accrued benefit amount in the pension plan,  
839 the then-present value of the accrued benefit is deemed part of  
840 the required transfer amount. The division must ensure that the  
841 transfer sum is prepared using a formula and methodology  
842 certified by an enrolled actuary. A refund of any employee  
843 contributions or additional member payments made which exceed  
844 the employee contributions that would have accrued had the  
845 member remained in the pension plan and not transferred to the  
846 investment plan is not permitted.

847       3. Notwithstanding subparagraph 2., an employee who chooses  
848 to move to the pension plan and who became eligible to  
849 participate in the investment plan by reason of employment in a  
850 regularly established position with a state employer after June  
851 1, 2002; a district school board employer after September 1,  
852 2002; or a local employer after December 1, 2002, must transfer  
853 from his or her investment plan account, and from other employee



930296

854 moneys as necessary, a sum representing the employee's actuarial  
855 accrued liability. A refund of any employee contributions or  
856 additional participant payments made which exceed the employee  
857 contributions that would have accrued had the member remained in  
858 the pension plan and not transferred to the investment plan is  
859 not permitted.

860 4. An employee's ability to transfer from the pension plan  
861 to the investment plan pursuant to paragraphs (a)-(d), and the  
862 ability of a current employee to have an option to later  
863 transfer back into the pension plan under subparagraph 2., shall  
864 be deemed a significant system amendment. Pursuant to s.  
865 121.031(4), any resulting unfunded liability arising from actual  
866 original transfers from the pension plan to the investment plan  
867 must be amortized within 30 plan years as a separate unfunded  
868 actuarial base independent of the reserve stabilization  
869 mechanism defined in s. 121.031(3)(f). For the first 25 years, a  
870 direct amortization payment may not be calculated for this base.  
871 During this 25-year period, the separate base shall be used to  
872 offset the impact of employees exercising their second program  
873 election under this paragraph. The actuarial funded status of  
874 the pension plan will not be affected by such second program  
875 elections in any significant manner, after due recognition of  
876 the separate unfunded actuarial base. Following the initial 25-  
877 year period, any remaining balance of the original separate base  
878 shall be amortized over the remaining 5 years of the required  
879 30-year amortization period.

880 5. If the employee chooses to transfer from the investment  
881 plan to the pension plan and retains an excess account balance  
882 in the investment plan after satisfying the buy-in requirements



930296

883 under this paragraph, the excess may not be distributed until  
884 the member retires from the pension plan. The excess account  
885 balance may be rolled over to the pension plan and used to  
886 purchase service credit or upgrade creditable service in the  
887 pension plan.

888  
889 ===== T I T L E A M E N D M E N T =====

890 And the title is amended as follows:

891 Delete lines 2 - 34

892 and insert:

893 An act relating to state retirement; amending s.  
894 121.021, F.S.; revising definitions of the terms  
895 "normal retirement date" and "vested" or "vesting";  
896 amending s. 121.0515, F.S.; correcting a cross-  
897 reference; amending s. 121.053, F.S.; specifying that  
898 a retiree who is elected or appointed for the first  
899 time to an elective office may not be enrolled as a  
900 renewed member; amending s. 121.055, F.S.; specifying  
901 that a retiree who is reemployed in a regularly  
902 established position as an elected official may not  
903 renew membership in the Senior Management Service  
904 Class or an annuity program; providing exceptions from  
905 the prohibition against paying benefits for certain  
906 purposes under the Senior Management Service Optional  
907 Annuity Program; specifying that a retiree who is  
908 reemployed in a regularly established position on or  
909 after a certain date may not be enrolled as a renewed  
910 member; amending s. 121.071, F.S.; providing  
911 exceptions from the prohibition against paying





930296

912 benefits for certain purposes under the pension plan;  
913 amending s. 121.091, F.S.; revising provisions  
914 relating to the early retirement benefit calculation  
915 to conform to changes made by the act; specifying the  
916 age of eligibility to participate in DROP for members  
917 enrolled after a certain date; amending s. 121.122,  
918 F.S.; specifying that a retiree who is reemployed in a  
919 regularly established position after a certain date  
920 may not be enrolled as a renewed member; amending s.  
921 121.35, F.S.; providing exceptions from the  
922 prohibition against paying benefits for certain  
923 purposes under the optional retirement program for the  
924 State University System; clarifying when voluntary  
925 contributions may be paid out; defining the term  
926 "benefit" for the purposes of the optional program;  
927 amending s. 121.4501, F.S.; specifying that the  
928 definition of "eligible employee" does not include  
929 certain members reemployed in a regularly established  
930 position; requiring new employees to, by default, be  
931 enrolled in the investment plan; extending the period  
932 during which employees may elect to participate in the  
933 pension plan; prohibiting certain employees from  
934 choosing to move to the pension plan after a certain  
935 period; amending s. 121.591, F.S.; providing