

By the Committee on Governmental Oversight and Accountability

585-01774-12

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1 A bill to be entitled
2 An act relating to state retirement; amending s.
3 121.0515, F.S.; correcting a cross-reference; amending
4 s. 121.053, F.S.; specifying that a retiree who is
5 elected or appointed for the first time to an elective
6 office may not be enrolled as a renewed member;
7 amending s. 121.055, F.S.; specifying that a retiree
8 who is reemployed in a regularly established position
9 as an elected official may not renew membership in the
10 Senior Management Service Class or an annuity program;
11 providing exceptions from the prohibition against
12 paying benefits for certain purposes under the Senior
13 Management Service Optional Annuity Program;
14 specifying that a retiree who is reemployed in a
15 regularly established position on or after a certain
16 date may not be enrolled as a renewed member; amending
17 s. 121.071, F.S.; providing exceptions from the
18 prohibition against paying benefits for certain
19 purposes under the pension plan; amending s. 121.091,
20 F.S.; specifying the age of eligibility to participate
21 in DROP for members enrolled after a certain date;
22 amending s. 121.122, F.S.; specifying that a retiree
23 who is reemployed in a regularly established position
24 after a certain date may not be enrolled as a renewed
25 member; amending s. 121.35, F.S.; providing exceptions
26 from the prohibition against paying benefits for
27 certain purposes under the optional retirement program
28 for the State University System; clarifying when
29 voluntary contributions may be paid out; defining the

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30 term "benefit" for the purposes of the optional
 31 program; amending s. 121.4501, F.S.; specifying that
 32 the definition of "eligible employee" does not include
 33 certain members reemployed in a regularly established
 34 position; amending s. 121.591, F.S.; providing
 35 exceptions from the prohibition against paying
 36 benefits for certain purposes under the Florida
 37 Retirement System Investment Plan; amending s.
 38 1012.875, F.S.; providing exceptions to the
 39 prohibition against paying benefits for certain
 40 purposes under the State Community College System
 41 Optional Retirement Program; providing an effective
 42 date.

43
 44 Be It Enacted by the Legislature of the State of Florida:

45
 46 Section 1. Paragraph (k) of subsection (3) of section
 47 121.0515, Florida Statutes, is amended to read:

48 121.0515 Special Risk Class.—

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

51 (k) The member must have already qualified for and be
 52 actively participating in special risk membership under
 53 paragraph (a), paragraph (b), or paragraph (c), must have
 54 suffered a qualifying injury ~~as defined in this paragraph~~, must
 55 not be receiving disability retirement benefits under ~~as~~
 56 ~~provided in~~ s. 121.091(4), and must satisfy the requirements of
 57 this paragraph.

58 1. ~~The ability~~ To qualify for the class of membership

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59 defined in paragraph (2)(i), ~~(2)(f)~~ occurs when two licensed
60 medical physicians, one of whom is the member's a primary
61 treating physician ~~of the member~~, must certify the existence of
62 ~~the physical injury and medical condition that constitute~~ a
63 qualifying injury ~~as defined in this paragraph~~ and that the
64 member has reached maximum medical improvement after August 1,
65 2008. The certifications ~~from the licensed medical physicians~~
66 must include, at a minimum, that the injury ~~to the special risk~~
67 ~~member~~ has resulted in a physical loss, or loss of use, of at
68 least two of the following: left arm, right arm, left leg, or
69 right leg; and that:

70 a. The ~~That this~~ physical loss or loss of use is total and
71 permanent, unless ~~except in the event that~~ the loss of use is
72 due to a physical injury to the member's brain, in which event
73 the loss of use is permanent with at least 75 percent loss of
74 motor function with respect to each arm or leg affected.

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

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

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

85 e. ~~That~~ The physical loss or loss of use is a direct result
86 of a physical injury and not a result of any mental,
87 psychological, or emotional injury.

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88 2. For the purposes of this paragraph, "qualifying injury"
89 means a physical ~~an~~ injury and medical condition sustained in
90 the line of duty, as certified by the member's employing agency,
91 by a special risk member which ~~that~~ does not result in total and
92 permanent disability as defined in s. 121.091(4)(b). An injury
93 is a qualifying injury if the injury is a physical injury to the
94 member's physical body resulting in a physical loss, or loss of
95 use, of at least two of the following: left arm, right arm, left
96 leg, or right leg. Notwithstanding any other provision of this
97 section, an injury that would otherwise qualify as a qualifying
98 injury is not ~~considered~~ a qualifying injury if and when the
99 member ceases employment with the employer for whom he or she
100 was providing special risk services on the date the injury
101 occurred.

102 3. The new position, as described in sub-subparagraph 1.c.,
103 ~~that is required for qualification as a special risk member~~
104 ~~under this paragraph~~ is not required to be a position with
105 essential job functions that entitle an individual to special
106 risk membership. Whether the ~~a~~ ~~new position as described in sub-~~
107 ~~subparagraph 1.c.~~ exists and is available to the special risk
108 member is a decision to be made solely by the employer in
109 accordance with its hiring practices and applicable law.

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

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

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117 121.053, Florida Statutes, is amended to read:

118 121.053 Participation in the Elected Officers' Class for
119 retired members.—

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

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

126 Section 3. Paragraph (f) of subsection (1) and paragraph
127 (e) of subsection (6) of section 121.055, Florida Statutes, are
128 amended to read:

129 121.055 Senior Management Service Class.—There is hereby
130 established a separate class of membership within the Florida
131 Retirement System to be known as the "Senior Management Service
132 Class," which shall become effective February 1, 1987.

133 (1)

134 (f) Effective July 1, 1997:

135 1. Except as provided in subparagraph 3., an elected state
136 officer eligible for membership in the Elected Officers' Class
137 under s. 121.052(2)(a), (b), or (c) who elects membership in the
138 Senior Management Service Class under s. 121.052(3)(c) may,
139 within 6 months after assuming office, or ~~within 6 months after~~
140 ~~this act becomes a law~~ for serving elected state officers,
141 within 6 months after May 30, 1997, elect to participate in the
142 Senior Management Service Optional Annuity Program, as provided
143 in subsection (6), in lieu of membership in the Senior
144 Management Service Class.

145 2. Except as provided in subparagraph 3., an elected

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146 officer of a local agency employer eligible for membership in
147 the Elected Officers' Class under s. 121.052(2)(d) who elects
148 membership in the Senior Management Service Class under s.
149 121.052(3)(c) may, within 6 months after assuming office, or
150 ~~within 6 months after this act becomes a law~~ for serving elected
151 officers of a local agency employer, within 6 months after May
152 30, 1997, elect to withdraw from the Florida Retirement System,
153 as provided in subparagraph (b)2., in lieu of membership in the
154 Senior Management Service Class.

155 3. A retiree of a state-administered retirement system who
156 is initially reemployed in a regularly established position on
157 or after July 1, 2010, as an elected official eligible for the
158 Elected Officers' Class may not be enrolled in renewed ~~renew~~
159 membership in the Senior Management Service Class or in the
160 Senior Management Service Optional Annuity Program as provided
161 in subsection (6), and may not withdraw from the Florida
162 Retirement System as a renewed member as provided in
163 subparagraph (b)2., as applicable, in lieu of membership in the
164 Senior Management Service Class.

165 (6)

166 (e) *Benefits.*—

167 1. Benefits under the Senior Management Service Optional
168 Annuity Program are payable only to members of the program, or
169 their beneficiaries as designated by the member in the contract
170 with the provider company, and must be paid by the designated
171 company in accordance with the terms of the annuity contract
172 applicable to the member. A member must be terminated from all
173 employment relationships with Florida Retirement System
174 employers for 3 calendar months to begin receiving the employer-

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175 funded and employee-funded benefit. The member must meet the
176 definition of termination in s. 121.021(39) beginning the month
177 after receiving a benefit, including a distribution. Benefits
178 funded by employer and employee contributions are payable under
179 the terms of the contract to the member, his or her beneficiary,
180 or his or her estate, in addition to:

181 a. A lump-sum payment to the beneficiary upon the death of
182 the member;

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

189 c. A mandatory distribution of a de minimis account of a
190 former member who has been terminated for a minimum of 6
191 calendar months from the employment that entitled him or her to
192 optional annuity program participation as authorized by the
193 department; or

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

199 2. Under the Senior Management Service Optional Annuity
200 Program, benefits, including employee contributions, are not
201 payable for employee hardships, unforeseeable emergencies,
202 loans, medical expenses, educational expenses, purchase of a
203 principal residence, payments necessary to prevent eviction or

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204 foreclosure on an employee's principal residence, or any other
205 reason except for a requested distribution for retirement, a
206 mandatory de minimis distribution authorized by the
207 administrator, or a minimum distribution required pursuant to
208 the Internal Revenue Code before termination from all employment
209 relationships with participating employers for 3 calendar
210 months.

211 3. The benefits payable to a ~~any~~ person under the Senior
212 Management Service Optional Annuity Program, and any
213 contribution accumulated under such program, are not subject to
214 assignment, execution, or attachment or to any legal process
215 whatsoever.

216 4. Except as provided in subparagraph 5., a member who
217 terminates employment and receives a distribution, including a
218 rollover or trustee-to-trustee transfer, funded by employer and
219 required employee contributions is a retiree of ~~deemed to be~~
220 ~~retired from~~ a state-administered retirement system. Such
221 retiree, who is initially reemployed in a regularly established
222 position on or after July 1, 2010, may not be enrolled as a
223 renewed member if the member is subsequently employed with an
224 employer that participates in the Florida Retirement System.

225 5. A member who receives optional annuity program benefits
226 funded by employer and employee contributions as a mandatory
227 distribution of a de minimis account authorized by the
228 department is not considered a retiree.

229
230 As used in this paragraph, a "de minimis account" means an
231 account with a provider company containing employer and employee
232 contributions and accumulated earnings of up to ~~not more than~~

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233 \$5,000 made under this chapter.

234 Section 4. Subsection (7) of section 121.071, Florida
235 Statutes, is amended to read:

236 121.071 Contributions.—Contributions to the system shall be
237 made as follows:

238 (7) ~~Before termination of employment,~~ Benefits, including
239 employee contributions, are not payable under the pension plan
240 for employee hardships, unforeseeable emergencies, loans,
241 medical expenses, educational expenses, purchase of a principal
242 residence, payments necessary to prevent eviction or foreclosure
243 on an employee's principal residence, or any other reason except
244 for payment of retirement benefits, a refund of employee
245 contributions, or a minimum distribution required pursuant to
246 the Internal Revenue Code ~~before termination from all employment~~
247 ~~relationships with participating employers.~~

248 Section 5. Paragraph (a) of subsection (13) of section
249 121.091, Florida Statutes, is amended to read:

250 121.091 Benefits payable under the system.—Benefits may not
251 be paid under this section unless the member has terminated
252 employment as provided in s. 121.021(39) (a) or begun
253 participation in the Deferred Retirement Option Program as
254 provided in subsection (13), and a proper application has been
255 filed in the manner prescribed by the department. The department
256 may cancel an application for retirement benefits when the
257 member or beneficiary fails to timely provide the information
258 and documents required by this chapter and the department's
259 rules. The department shall adopt rules establishing procedures
260 for application for retirement benefits and for the cancellation
261 of such application when the required information or documents

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262 are not received.

263 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and
264 subject to this section, the Deferred Retirement Option Program,
265 hereinafter referred to as DROP, is a program under which an
266 eligible member of the Florida Retirement System may elect to
267 participate, deferring receipt of retirement benefits while
268 continuing employment with his or her Florida Retirement System
269 employer. The deferred monthly benefits shall accrue in the
270 Florida Retirement System on behalf of the member, plus interest
271 compounded monthly, for the specified period of the DROP
272 participation, as provided in paragraph (c). Upon termination of
273 employment, the member shall receive the total DROP benefits and
274 begin to receive the previously determined normal retirement
275 benefits. Participation in the DROP does not guarantee
276 employment for the specified period of DROP. Participation in
277 DROP by an eligible member beyond the initial 60-month period as
278 authorized in this subsection shall be on an annual contractual
279 basis for all participants.

280 (a) *Eligibility of member to participate in DROP.*—All
281 active Florida Retirement System members in a regularly
282 established position, and all active members of the Teachers'
283 Retirement System established in chapter 238 or the State and
284 County Officers' and Employees' Retirement System established in
285 chapter 122, which are consolidated within the Florida
286 Retirement System under s. 121.011, may participate ~~are eligible~~
287 ~~to elect participation~~ in DROP if:

288 1. The member is not a renewed member under s. 121.122 or a
289 member of the State Community College System Optional Retirement
290 Program under s. 121.051, the Senior Management Service Optional

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291 Annuity Program under s. 121.055, or the optional retirement
292 program for the State University System under s. 121.35.

293 2. Except as provided in subparagraph 6., for members
294 initially enrolled before July 1, 2011, election to participate
295 must be is made within 12 months immediately following the date
296 on which the member first reaches normal retirement date;; or,
297 for a member who reaches normal retirement date based on service
298 before he or she reaches age 62, or age 55 for Special Risk
299 Class members, election to participate may be deferred to the 12
300 months immediately following the date the member attains age 57,
301 or age 52 for Special Risk Class members. Except as provided in
302 subparagraph 6., for members initially enrolled on or after July
303 1, 2011, election to participate must be made within the 12
304 months immediately following the date on which the member first
305 reaches normal retirement date; or, for a member who reaches
306 normal retirement date based on service before he or she reaches
307 age 65, or age 60 for Special Risk Class members, election to
308 participate may be deferred to the 12 months immediately
309 following the date the member attains age 60, or age 55 for
310 Special Risk Class members. A member who delays DROP
311 participation during the 12-month period immediately following
312 his or her maximum DROP deferral date,~~except as provided in~~
313 ~~subparagraph 6.,~~ loses a month of DROP participation for each
314 month delayed. A member who fails to make an election within the
315 12-month limitation period forfeits all rights to participate in
316 DROP. The member shall advise his or her employer and the
317 division in writing of the date DROP begins. The beginning date
318 may be subsequent to the 12-month election period but must be
319 within the original 60-month participation period provided in

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320 subparagraph (b)1. When establishing eligibility to participate
321 in DROP, the member may elect to include or exclude any optional
322 service credit purchased by the member from the total service
323 used to establish the normal retirement date. A member who has
324 dual normal retirement dates may ~~is eligible to elect to~~
325 participate in DROP after attaining normal retirement date in
326 either class.

327 3. The employer of a member electing to participate in
328 DROP, or employers if dually employed, shall acknowledge in
329 writing to the division the date the member's participation in
330 DROP begins and the date the member's employment and DROP
331 participation terminates.

332 4. Simultaneous employment of a member by additional
333 Florida Retirement System employers subsequent to the
334 commencement of a member's participation in DROP is permissible
335 if such employers acknowledge in writing a DROP termination date
336 no later than the member's existing termination date or the
337 maximum participation period provided in subparagraph (b)1.

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

340 a. The ~~A~~ change of employment takes place without a break
341 in service so that the member receives salary for each month of
342 continuous DROP participation. If a member receives no salary
343 during a month, DROP participation ceases unless the employer
344 verifies a continuation of the employment relationship for such
345 member pursuant to s. 121.021(39)(b).

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

348 c. The new employer acknowledges, in writing, the member's

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349 DROP termination date, which may be extended but not beyond the
350 maximum participation period provided in subparagraph (b)1.,
351 acknowledges liability for any additional retirement
352 contributions and interest required if the member fails to
353 timely terminate employment, and is subject to the adjustment
354 required in sub-subparagraph (c)5.d.

355 6. Effective July 1, 2001, for instructional personnel as
356 defined in s. 1012.01(2), election to participate in DROP may be
357 made at any time following the date on which the member first
358 reaches normal retirement date. The member shall advise his or
359 her employer and the division in writing of the date on which
360 DROP begins. When establishing eligibility of the member to
361 participate in DROP for the 60-month participation period
362 provided in subparagraph (b)1., the member may elect to include
363 or exclude any optional service credit purchased by the member
364 from the total service used to establish the normal retirement
365 date. A member who has dual normal retirement dates is eligible
366 to elect to participate in either class.

367 Section 6. Subsection (2) of section 121.122, Florida
368 Statutes, is amended to read:

369 121.122 Renewed membership in system.—

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

374 Section 7. Paragraphs (a), (b), (g), and (h) of subsection
375 (5) of section 121.35, Florida Statutes, are amended to read:

376 121.35 Optional retirement program for the State University
377 System.—

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378 (5) BENEFITS.—

379 (a) Benefits are payable under the optional retirement
380 program only to vested members participating in the program, or
381 their beneficiaries as designated by the member in the contract
382 with a provider company, and such benefits shall be paid only by
383 the designated company in accordance with s. 403(b) of the
384 Internal Revenue Code and the terms of the annuity or investment
385 contract ~~or contracts~~ applicable to the member. Benefits accrue
386 in individual accounts that are member-directed, portable, and
387 funded by employer and employee contributions and the earnings
388 thereon. The member must be terminated for 3 calendar months
389 from all employment relationships with all Florida Retirement
390 System employers to begin receiving the benefit. Benefits funded
391 by employer and employee contributions are payable in accordance
392 with the following terms and conditions:

393 1. Benefits shall be paid only to a participating member,
394 to his or her beneficiaries, or to his or her estate, as
395 designated by the member.

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

399 3. In the event of a member's death, moneys accumulated by,
400 or on behalf of, the member, less withholding taxes remitted to
401 the Internal Revenue Service, if any, shall be distributed to
402 the member's designated beneficiary or beneficiaries, or to the
403 member's estate, as if the member retired on the date of death,
404 as provided in paragraph (d). No other death benefits are
405 available to survivors of members under the optional retirement
406 program except for such benefits, or coverage for such benefits,

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407 as are separately afforded by the employer, at the employer's
408 discretion.

409 (b) Benefits, including employee contributions, are not
410 payable for employee hardships, unforeseeable emergencies,
411 loans, medical expenses, educational expenses, purchase of a
412 principal residence, payments necessary to prevent eviction or
413 foreclosure on an employee's principal residence, or any other
414 reason except for a requested distribution for retirement, a
415 mandatory de minimis distribution authorized by the
416 administrator, or a minimum distribution required pursuant to
417 the Internal Revenue Code before termination from all employment
418 relationships with participating employers for 3 calendar
419 months.

420 (g) Benefits funded by the participating member's voluntary
421 personal contributions may be paid out after termination of
422 employment from all participating employers for 3 calendar
423 months ~~at any time~~ and in any form within the limits provided in
424 the contract between the member and the provider company. The
425 member shall notify the provider company regarding the date and
426 provisions under which he or she wants to receive the employee-
427 funded portion of the plan.

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

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

433 2. "Retiree" means a former participating member of the
434 optional retirement program who has terminated employment and
435 has taken a distribution as provided in this subsection, except

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436 for a mandatory distribution of a de minimis account authorized
437 by the department.

438 Section 8. Paragraph (e) of subsection (2) of section
439 121.4501, Florida Statutes, is amended to read:

440 121.4501 Florida Retirement System Investment Plan.—

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

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

444 1. Is a member of, or is eligible for membership in, the
445 Florida Retirement System, including any renewed member of the
446 Florida Retirement System initially enrolled before July 1,
447 2010; or

448 2. Participates in, or is eligible to participate in, the
449 Senior Management Service Optional Annuity Program ~~as~~
450 established under s. 121.055(6), the State Community College
451 System Optional Retirement Program ~~as~~ established under s.
452 121.051(2)(c), or the State University System Optional
453 Retirement Program established under s. 121.35.

454
455 The term does not include a ~~any~~ member participating in the
456 Deferred Retirement Option Program established under s.
457 121.091(13), a retiree of a state-administered retirement system
458 initially reemployed in a regularly established position on or
459 after July 1, 2010, or a mandatory participant of the State
460 University System Optional Retirement Program established under
461 s. 121.35.

462 Section 9. Section 121.591, Florida Statutes, is amended to
463 read:

464 121.591 Payment of benefits.—Benefits may not be paid under

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465 the Florida Retirement System Investment Plan unless the member
466 has terminated employment as provided in s. 121.021(39)(a) or is
467 deceased and a proper application has been filed as prescribed
468 by the state board or the department. ~~Before termination of~~
469 ~~employment,~~ Benefits, including employee contributions, are not
470 payable under the investment plan for employee hardships,
471 unforeseeable emergencies, loans, medical expenses, educational
472 expenses, purchase of a principal residence, payments necessary
473 to prevent eviction or foreclosure on an employee's principal
474 residence, or any other reason except for a requested
475 distribution for retirement, a mandatory de minimis distribution
476 authorized by the board, or a minimum distribution required
477 pursuant to the Internal Revenue Code ~~prior to termination from~~
478 ~~all employment relationships with participating employers.~~ The
479 state board or department, as appropriate, may cancel an
480 application for retirement benefits if the member or beneficiary
481 fails to timely provide the information and documents required
482 by this chapter and the rules of the state board and department.
483 In accordance with their respective responsibilities, the state
484 board and the department shall adopt rules establishing
485 procedures for applying ~~application~~ for retirement benefits and
486 for cancelling ~~the cancellation of~~ such application if the
487 required information or documents are not received. The state
488 board and the department, as appropriate, may ~~are authorized to~~
489 cash out a de minimis account of a member who has been
490 terminated from Florida Retirement System covered employment for
491 a minimum of 6 calendar months. A de minimis account is an
492 account containing employer and employee contributions and
493 accumulated earnings of up to ~~not more than~~ \$5,000 made under

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494 ~~the provisions of~~ this chapter. Such cash-out must be a complete
495 lump-sum liquidation of the account balance, subject to ~~the~~
496 ~~provisions of~~ the Internal Revenue Code, or a lump-sum direct
497 rollover distribution paid directly to the custodian of an
498 eligible retirement plan, as defined by the Internal Revenue
499 Code, on behalf of the member. Any nonvested accumulations and
500 associated service credit, including amounts transferred to the
501 suspense account of the Florida Retirement System Investment
502 Plan Trust Fund authorized under s. 121.4501(6), are ~~shall be~~
503 forfeited upon payment of any vested benefit to a member or
504 beneficiary, except for de minimis distributions or minimum
505 required distributions as provided under this section. If any
506 financial instrument issued for the payment of retirement
507 benefits under this section is not presented for payment within
508 180 days after the last day of the month in which it was
509 originally issued, the third-party administrator or other ~~duly~~
510 authorized agent of the state board shall cancel the instrument
511 and credit the amount of the instrument to the suspense account
512 of the Florida Retirement System Investment Plan Trust Fund
513 ~~authorized under s. 121.4501(6)~~. Any amounts transferred to the
514 suspense account are payable upon ~~a~~ proper application, not
515 including to include earnings thereon, as provided in this
516 section, within 10 years after the last day of the month in
517 which the instrument was originally issued, after which time
518 such amounts and any earnings attributable to employer
519 contributions are ~~shall be~~ forfeited. Any forfeited amounts are
520 assets of the trust fund and are not subject to chapter 717.

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

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

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

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

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

530 3. The member must be terminated from all employment with
531 all Florida Retirement System employers, as provided in s.
532 121.021(39).

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

539 5. If a member or former member of the Florida Retirement
540 System receives an invalid distribution, such person must ~~either~~
541 repay the full amount within 90 days after receipt of final
542 notification by the state board or the third-party administrator
543 that the distribution was invalid, or, in lieu of repayment, ~~the~~
544 ~~member~~ must terminate employment from all participating
545 employers. If such person fails to repay the full invalid
546 distribution within 90 days after receipt of final notification,
547 the person may be deemed retired from the investment plan by the
548 state board and is subject to s. 121.122. If such person is
549 deemed retired, any joint and several liability set out in s.
550 121.091(9)(d)2. is void, and the state board, the department, or
551 the employing agency is not liable for gains on payroll

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552 contributions that have not been deposited to the person's
553 account in the investment plan, pending resolution of the
554 invalid distribution. The member or former member who has been
555 deemed retired or who has been determined by the state board to
556 have taken an invalid distribution may appeal the agency
557 decision through the complaint process ~~as~~ provided under s.
558 121.4501(9)(g)3. As used in this subparagraph, the term "invalid
559 distribution" means any distribution from an account in the
560 investment plan which is taken in violation of this section, s.
561 121.091(9), or s. 121.4501.

562 (b) If a member elects to receive his or her benefits upon
563 termination of employment as defined in s. 121.021, the member
564 must submit a written application or an application by
565 electronic means to the third-party administrator indicating his
566 or her preferred distribution date and selecting an authorized
567 method of distribution as provided in paragraph (c). The member
568 may defer application for and receipt of benefits ~~until he or~~
569 ~~she chooses to make such application~~, subject to federal
570 requirements.

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

- 575 1. A lump-sum or partial distribution to the member;
- 576 2. A lump-sum direct rollover distribution whereby all
577 accrued benefits, plus interest and investment earnings, are
578 paid from the member's account directly to the custodian of an
579 eligible retirement plan, as defined in s. 402(c)(8)(B) of the
580 Internal Revenue Code, on behalf of the member; or

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581 3. Periodic distributions, as authorized by the state
582 board.

583 (d) The distribution payment method selected by the member
584 or beneficiary, and the retirement of the member or beneficiary,
585 is final and irrevocable at the time a benefit distribution
586 payment is cashed, deposited, or transferred to another
587 financial institution. Any additional service that remains
588 unclaimed at retirement may not be claimed or purchased, and the
589 type of retirement may not be changed, except that if a member
590 recovers from a disability, the member may subsequently request
591 benefits under subsection (2).

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

595 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided under
596 this subsection are payable in lieu of ~~the~~ benefits that would
597 ~~otherwise~~ be payable under ~~the provisions of~~ subsection (1).
598 Such benefits must be funded from employer contributions made
599 under s. 121.571, transferred employee contributions and funds
600 accumulated pursuant to paragraph (a), and interest and earnings
601 thereon.

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

604 1. All moneys accumulated in the member's accounts ~~account~~,
605 including vested and nonvested accumulations as described in s.
606 121.4501(6), must be transferred from the ~~such individual~~
607 accounts to the division for deposit in the disability account
608 of the Florida Retirement System Trust Fund. Such moneys must be
609 accounted for separately. Earnings must be credited on an annual

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610 basis for amounts held in the disability accounts of the Florida
611 Retirement System Trust Fund based on actual earnings of the
612 trust fund.

613 2. If the member has retained retirement credit earned
614 under the pension plan as provided in s. 121.4501(3), a sum
615 representing the actuarial present value of such credit within
616 the Florida Retirement System Trust Fund shall be reassigned by
617 the division from the pension plan to the disability program as
618 implemented under this subsection and ~~shall be deposited into~~ in
619 the disability account of the trust fund. Such moneys must be
620 accounted for separately.

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

622 1. A member of the investment plan who becomes totally and
623 permanently disabled, as defined in paragraph (d), after
624 completing 8 years of creditable service, or a member who
625 becomes totally and permanently disabled in the line of duty
626 regardless of length of service, is entitled to a monthly
627 disability benefit.

628 2. In order for service to apply toward the 8 years of
629 creditable service required for regular disability benefits, or
630 toward the creditable service used in calculating a service-
631 based benefit ~~as provided~~ under paragraph (g), the service must
632 be creditable service as described below:

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

636 b. If the member has elected to retain credit for service
637 under the pension plan as provided under s. 121.4501(3), all
638 such service is ~~shall be~~ considered creditable service.

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639 c. If the member elects to transfer to his or her member
640 accounts a sum representing the present value of his or her
641 retirement credit under the pension plan as provided under s.
642 121.4501(3), the period of service under the pension plan
643 represented in the present value amounts transferred is ~~shall be~~
644 considered creditable service, except as provided in
645 subparagraph d.

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

650 (c) *Disability retirement effective date.*—The effective
651 retirement date for a member who applies and is approved for
652 disability retirement shall be established as provided under s.
653 121.091(4)(a)2. and 3.

654 (d) *Total and permanent disability.*—A member is ~~shall be~~
655 considered totally and permanently disabled if, in the opinion
656 of the division, he or she is prevented, by reason of a
657 medically determinable physical or mental impairment, from
658 rendering useful and efficient service as an officer or
659 employee.

660 (e) *Proof of disability.*— Before approving payment of a ~~any~~
661 disability retirement benefit, the division shall require proof
662 that the member is totally and permanently disabled as provided
663 under s. 121.091(4)(c).

664 (f) *Disability retirement benefit.*—Upon the disability
665 retirement of a member under this subsection, the member shall
666 receive a monthly benefit that begins accruing on the first day
667 of the month of disability retirement, as approved by the

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668 division, and is payable on the last day of that month and each
669 month thereafter during his or her lifetime and continued
670 disability. All disability benefits must be paid out of the
671 disability account of the Florida Retirement System Trust Fund
672 established under this subsection.

673 (g) *Computation of disability retirement benefit.*—The
674 amount of each monthly payment must be calculated as provided
675 under s. 121.091(4) (f). Creditable service under both the
676 pension plan and the investment plan is ~~shall be~~ applicable as
677 provided under paragraph (b).

678 (h) *Reapplication.*—A member whose initial application for
679 disability retirement is denied may reapply for disability
680 benefits as provided in s. 121.091(4) (g).

681 (i) *Membership.*—Upon approval of a member's application for
682 disability benefits, the member shall be transferred to the
683 pension plan, effective upon his or her disability retirement
684 effective date.

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

690 1. The member's transfer to the pension plan under
691 paragraph (i) is ~~shall be~~ nullified;

692 2. The member shall be retroactively reinstated in the
693 investment plan without hiatus;

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

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

699 (k) *Recovery from disability.*—

700 1. The division may require periodic reexaminations at the
701 expense of the disability program account of the Florida
702 Retirement System Trust Fund. Except as provided in subparagraph
703 2., all other matters relating to recovery from disability are
704 ~~shall be~~ as provided under s. 121.091(4)(h).

705 2. Upon recovery from disability, the recipient of
706 disability retirement benefits under this subsection becomes
707 ~~shall be~~ a compulsory member of the investment plan. The net
708 difference between the recipient's original account balance
709 transferred to the Florida Retirement System Trust Fund,
710 including earnings and total disability benefits paid to the
711 ~~such~~ recipient, if any, shall be determined as provided in sub-
712 subparagraph a.

713 a. An amount equal to the total benefits paid shall be
714 subtracted from that portion of the transferred account balance
715 consisting of vested accumulations as described under s.
716 121.4501(6), if any, and an amount equal to the remainder of
717 benefit amounts paid, if any, shall be subtracted from any
718 remaining nonvested accumulations.

719 b. Amounts subtracted under sub-subparagraph a. must be
720 retained within the disability account of the Florida Retirement
721 System Trust Fund. Any remaining account balance shall be
722 transferred to the third-party administrator for disposition as
723 provided under sub-subparagraph c. or sub-subparagraph d., as
724 appropriate.

725 c. If the recipient returns to covered employment,

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726 transferred amounts must be deposited in individual accounts
727 under the investment plan, as directed by the member. Vested and
728 nonvested amounts shall be accounted for separately as provided
729 in s. 121.4501(6).

730 d. If the recipient fails to return to covered employment
731 upon recovery from disability:

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

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

738 3. If present value was reassigned from the pension plan to
739 the disability program as provided under subparagraph (a)2., the
740 full present value amount must be returned to the defined
741 benefit account within the Florida Retirement System Trust Fund
742 and the member's associated retirement credit under the pension
743 plan must be reinstated in full. Any benefit based upon such
744 credit must be calculated as provided in s. 121.091(4)(h)1.

745 (l) *Nonadmissible causes of disability.*—A member is not
746 entitled to a disability retirement benefit if the disability
747 results from an ~~any~~ injury or disease ~~as~~ described in s.
748 121.091(4)(i).

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

751 1. If a member is a justice of the Supreme Court, judge of
752 a district court of appeal, circuit judge, or judge of a county
753 court who has served for the years equal to, or greater than,
754 the vesting requirement in s. 121.021(45) as an elected

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755 constitutional judicial officer, including service as a judicial
756 officer in any court abolished pursuant to Art. V of the State
757 Constitution, and who is retired for disability pursuant to s.
758 12, Art. V of the State Constitution, the member's Option 1
759 monthly disability benefit amount as provided in s.
760 121.091(6)(a)1. shall be two-thirds of his or her monthly
761 compensation as of the member's disability retirement date. The
762 member may alternatively elect to receive an actuarially
763 adjusted disability retirement benefit under any other option as
764 provided in s. 121.091(6)(a) or ~~to receive~~ the normal benefit
765 payable under subsection (1).

766 2. If any justice or judge who is a member of the
767 investment plan is retired for disability pursuant to s. 12,
768 Art. V of the State Constitution and elects to receive a monthly
769 disability benefit under the provisions of this paragraph:

770 a. Any present value amount that was transferred to his or
771 her investment plan account and all employer and employee
772 contributions made to such account on his or her behalf, plus
773 interest and earnings thereon, must be transferred to and
774 deposited in the disability account of the Florida Retirement
775 System Trust Fund; and

776 b. The monthly disability benefits payable under this
777 paragraph shall be paid from the disability account of the
778 Florida Retirement System Trust Fund.

779 (n) *Death of retiree or beneficiary.*—Upon the death of a
780 disabled retiree or beneficiary of the retiree who is receiving
781 monthly disability benefits under this subsection, the monthly
782 benefits shall be paid through the last day of the month of
783 death and ~~shall~~ terminate, or be adjusted, if applicable, as of

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784 that date in accordance with the optional form of benefit
785 selected at the time of retirement. The department may adopt
786 rules necessary to administer this paragraph.

787 (3) DEATH BENEFITS.—Under the Florida Retirement System
788 Investment Plan:

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

791 1. To the extent vested, benefits are payable only to a
792 member's beneficiary or beneficiaries as designated by the
793 member under ~~as provided in~~ s. 121.4501(20).

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

797 3. ~~To receive benefits,~~ The member must be deceased.

798 (b) In the event of a member's death, all vested
799 accumulations as described in s. 121.4501(6), less withholding
800 taxes remitted to the Internal Revenue Service, shall be
801 distributed, as provided in paragraph (c) or as described in s.
802 121.4501(20), as if the member retired on the date of death. No
803 other death benefits are available for survivors of members,
804 except for benefits, or coverage for benefits, as are otherwise
805 provided by law or separately provided by the employer, at the
806 employer's discretion.

807 (c) Upon receipt by the third-party administrator of a
808 properly executed application for distribution of benefits, the
809 total accumulated benefit is payable by the third-party
810 administrator to the member's surviving beneficiary or
811 beneficiaries, as:

812 1. A lump-sum distribution payable to the beneficiary or

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813 beneficiaries, or to the deceased member's estate;

814 2. An eligible rollover distribution, if permitted, on
815 behalf of the surviving spouse of a deceased member, whereby all
816 accrued benefits, plus interest and investment earnings, are
817 paid from the deceased member's account directly to the
818 custodian of an eligible retirement plan, as described in s.
819 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
820 surviving spouse; or

821 3. A partial lump-sum payment whereby a portion of the
822 accrued benefit is paid to the deceased member's surviving
823 spouse or other designated beneficiaries, less withholding taxes
824 remitted to the Internal Revenue Service, and the remaining
825 amount is transferred directly to the custodian of an eligible
826 retirement plan, if permitted, as described in s. 402(c)(8)(B)
827 of the Internal Revenue Code, on behalf of the surviving spouse.
828 The proportions must be specified by the member or the surviving
829 beneficiary.

830

831 This paragraph does not abrogate other applicable provisions of
832 state or federal law providing for payment of death benefits.

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

840 Section 10. Subsection (7) of section 1012.875, Florida
841 Statutes, is amended to read:

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842 1012.875 State Community College System Optional Retirement
843 Program.—Each Florida College System institution may implement
844 an optional retirement program, if such program is established
845 therefor pursuant to s. 1001.64(20), under which annuity or
846 other contracts providing retirement and death benefits may be
847 purchased by, and on behalf of, eligible employees who
848 participate in the program, in accordance with s. 403(b) of the
849 Internal Revenue Code. Except as otherwise provided herein, this
850 retirement program, which shall be known as the State Community
851 College System Optional Retirement Program, may be implemented
852 and administered only by an individual Florida College System
853 institution or by a consortium of Florida College System
854 institutions.

855 (7) Benefits, including employee contributions, are not
856 payable for employee hardships, unforeseeable emergencies,
857 loans, medical expenses, educational expenses, purchase of a
858 principal residence, payments necessary to prevent eviction or
859 foreclosure on an employee's principal residence, or any other
860 reason except for a requested distribution for retirement, a
861 mandatory de minimis distribution authorized by the college, or
862 a minimum distribution required pursuant to the Internal Revenue
863 Code before termination from all employment relationships with
864 participating employers for 3 calendar months.

865 Section 11. This act shall take effect July 1, 2012.