

By the Committees on Budget; Governmental Oversight and Accountability; and Governmental Oversight and Accountability

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1                                   A bill to be entitled  
2       An act relating to state retirement; creating s.  
3       121.012, F.S.; providing applicability; amending s.  
4       121.021, F.S.; clarifying the definitions of the terms  
5       "normal retirement date" and "vesting"; amending s.  
6       121.0515, F.S.; correcting a cross-reference; amending  
7       s. 121.055, F.S.; authorizing distributions to a  
8       member who is terminated from employment for 1  
9       calendar month if the member has reached the normal  
10      retirement date; providing rulemaking authority to the  
11      Department of Management Services; clarifying  
12      provisions related to the prohibition of hardship  
13      loans or payments; clarifying that a retiree who is  
14      reemployed in a regularly established position after a  
15      certain date may not be enrolled as a renewed member;  
16      amending s. 121.071, F.S.; clarifying provisions  
17      related to the prohibition of hardship loans or  
18      payments; amending s. 121.091, F.S.; making conforming  
19      changes to the Deferred Retirement Option Program  
20      regarding deferral age; amending s. 121.122, F.S.;  
21      clarifying that a retiree who is reemployed in a  
22      regularly established position after a certain date  
23      may not be enrolled as a renewed member; amending s.  
24      121.35, F.S.; providing that a benefit for the  
25      purposes of the optional retirement program for the  
26      State University System includes a certain  
27      distribution; authorizing distributions to a member  
28      who is terminated from employment for 1 calendar month  
29      if the member has reached the normal retirement date;

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30 providing rulemaking authority to the Department of  
31 Management Services; clarifying provisions related to  
32 the prohibition of hardship loans or payments;  
33 clarifying when voluntary contributions may be paid  
34 out; amending s. 121.4501, F.S.; specifying that the  
35 definition of the term "eligible employee" does not  
36 include certain members reemployed in regularly  
37 established positions; clarifying that a retiree who  
38 is reemployed in a regularly established position  
39 after a certain date may not be enrolled as a renewed  
40 member; amending s. 121.591, F.S.; clarifying  
41 provisions related to the prohibition of hardship  
42 loans or payments; amending s. 1012.875, F.S.;  
43 authorizing distributions to a member who is  
44 terminated from employment for 1 calendar month if the  
45 member has reached the normal retirement date;  
46 providing rulemaking authority to the boards of  
47 trustees for colleges; clarifying provisions related  
48 to the prohibition of hardship loans or payments;  
49 providing an effective date.

50  
51 Be It Enacted by the Legislature of the State of Florida:

52  
53 Section 1. Section 121.012, Florida Statutes, is created to  
54 read:

55 121.012 Inclusive provisions.—The provisions of part I of  
56 this chapter shall be applicable to parts II and III to the  
57 extent such provisions are not inconsistent with, or duplicative  
58 of, the provisions of parts II and III.

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

61 121.021 Definitions.—The following words and phrases as  
62 used in this chapter have the respective meanings set forth  
63 unless a different meaning is plainly required by the context:

64 (29) "Normal retirement date" means the date a member  
65 attains normal retirement age and is vested, which is determined  
66 as follows:

67 (a)~~1.~~ If a Regular Class member, a Senior Management  
68 Service Class member, or an Elected Officers' Class member  
69 initially enrolled:

70 1. Before July 1, 2011:

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

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

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

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

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

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

81 1. Before July 1, 2011:

82 a. The first day of the month the member attains age 55 and  
83 completes the years of creditable service in the Special Risk  
84 Class equal to or greater than the years of service required for  
85 vesting;

86 b. The first day of the month following the date the member  
87 completes 25 years of creditable service in the Special Risk

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88 Class, regardless of age; or

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

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

96 a. The first day of the month the member attains age 60 and  
97 completes the years of creditable service in the Special Risk  
98 Class equal to or greater than the years of service required for  
99 vesting;

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

103 c. The first day of the month following the date the member  
104 completes 30 years of creditable service and attains age 57,  
105 which service may include a maximum of 4 years of military  
106 service credit if such credit is not claimed under any other  
107 system and the remaining years are in the Special Risk Class.  
108

109 For pension plan members, "normal retirement age" is attained on  
110 the "normal retirement date." For investment plan members,  
111 normal retirement age is the date a member attains his or her  
112 normal retirement date as provided in this section, or the date  
113 a member is vested under the investment plan as provided in s.  
114 121.4501(6), whichever is later.

115 (45) "Vested" or "vesting" means the guarantee that a  
116 member is eligible to receive a future retirement benefit upon

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117 completion of the required years of creditable service for the  
118 employee's class of membership, even though the member may have  
119 terminated covered employment before reaching normal or early  
120 retirement date. Being vested does not entitle a member to a  
121 disability benefit. Provisions governing entitlement to  
122 disability benefits are set forth under s. 121.091(4).

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

126 Section 3. Paragraph (k) of subsection (3) of section  
127 121.0515, Florida Statutes, is amended to read:

128 121.0515 Special Risk Class.—

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

131 (k) The member must have already qualified for and be  
132 actively participating in special risk membership under  
133 paragraph (a), paragraph (b), or paragraph (c), must have  
134 suffered a qualifying injury as defined in this paragraph, must  
135 not be receiving disability retirement benefits as provided in  
136 s. 121.091(4), and must satisfy the requirements of this  
137 paragraph.

138 1. The ability to qualify for the class of membership  
139 defined in paragraph (2) (i) ~~(2) (f)~~ occurs when two licensed  
140 medical physicians, one of whom is a primary treating physician  
141 of the member, certify the existence of the physical injury and  
142 medical condition that constitute a qualifying injury as defined  
143 in this paragraph and that the member has reached maximum  
144 medical improvement after August 1, 2008. The certifications  
145 from the licensed medical physicians must include, at a minimum,

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146 that the injury to the special risk member has resulted in a  
147 physical loss, or loss of use, of at least two of the following:  
148 left arm, right arm, left leg, or right leg; and:

149 a. That this physical loss or loss of use is total and  
150 permanent, except in the event that the loss of use is due to a  
151 physical injury to the member's brain, in which event the loss  
152 of use is permanent with at least 75 percent loss of motor  
153 function with respect to each arm or leg affected.

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

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

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

164 e. That the physical loss or loss of use is a direct result  
165 of a physical injury and not a result of any mental,  
166 psychological, or emotional injury.

167 2. For the purposes of this paragraph, "qualifying injury"  
168 means an injury sustained in the line of duty, as certified by  
169 the member's employing agency, by a special risk member that  
170 does not result in total and permanent disability as defined in  
171 s. 121.091(4)(b). An injury is a qualifying injury if the injury  
172 is a physical injury to the member's physical body resulting in  
173 a physical loss, or loss of use, of at least two of the  
174 following: left arm, right arm, left leg, or right leg.

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175 Notwithstanding any other provision of this section, an injury  
176 that would otherwise qualify as a qualifying injury is not  
177 considered a qualifying injury if and when the member ceases  
178 employment with the employer for whom he or she was providing  
179 special risk services on the date the injury occurred.

180         3. The new position, as described in sub-subparagraph 1.c.,  
181 that is required for qualification as a special risk member  
182 under this paragraph is not required to be a position with  
183 essential job functions that entitle an individual to special  
184 risk membership. Whether a new position as described in sub-  
185 subparagraph 1.c. exists and is available to the special risk  
186 member is a decision to be made solely by the employer in  
187 accordance with its hiring practices and applicable law.

188         4. This paragraph does not grant or create additional  
189 rights for any individual to continued employment or to be hired  
190 or rehired by his or her employer that are not already provided  
191 within the Florida Statutes, the State Constitution, the  
192 Americans with Disabilities Act, if applicable, or any other  
193 applicable state or federal law.

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

197         121.055 Senior Management Service Class.—There is hereby  
198 established a separate class of membership within the Florida  
199 Retirement System to be known as the "Senior Management Service  
200 Class," which shall become effective February 1, 1987.

201         (1)

202         (f) Effective July 1, 1997:

203         1. Except as provided in subparagraph 3., an elected state

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204 officer eligible for membership in the Elected Officers' Class  
205 under s. 121.052(2)(a), (b), or (c) who elects membership in the  
206 Senior Management Service Class under s. 121.052(3)(c) may,  
207 within 6 months after assuming office or within 6 months after  
208 this act becomes a law for serving elected state officers, elect  
209 to participate in the Senior Management Service Optional Annuity  
210 Program, as provided in subsection (6), in lieu of membership in  
211 the Senior Management Service Class.

212 2. Except as provided in subparagraph 3., an elected  
213 officer of a local agency employer eligible for membership in  
214 the Elected Officers' Class under s. 121.052(2)(d) who elects  
215 membership in the Senior Management Service Class under s.  
216 121.052(3)(c) may, within 6 months after assuming office, or  
217 within 6 months after this act becomes a law for serving elected  
218 officers of a local agency employer, elect to withdraw from the  
219 Florida Retirement System, as provided in subparagraph (b)2., in  
220 lieu of membership in the Senior Management Service Class.

221 3. A retiree of a state-administered retirement system who  
222 is initially reemployed in a regularly established position on  
223 or after July 1, 2010, as an elected official eligible for the  
224 Elected Officers' Class may not be enrolled in renewed ~~renew~~  
225 membership in the Senior Management Service Class or in the  
226 Senior Management Service Optional Annuity Program as provided  
227 in subsection (6), and may not withdraw from the Florida  
228 Retirement System as a renewed member as provided in  
229 subparagraph (b)2., as applicable, in lieu of membership in the  
230 Senior Management Service Class.

231 (6)

232 (e) *Benefits.*—



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233 1. Benefits under the Senior Management Service Optional  
234 Annuity Program are payable only to members of the program, or  
235 their beneficiaries as designated by the member in the contract  
236 with the provider company, and must be paid by the designated  
237 company in accordance with the terms of the annuity contract  
238 applicable to the member. A member must be terminated from all  
239 employment relationships with Florida Retirement System  
240 employers for 3 calendar months to begin receiving the employer-  
241 funded and employee-funded benefit. The department may authorize  
242 a distribution of up to 10 percent of the member's account after  
243 being terminated from employment with all participating  
244 employers for 1 calendar month if the member has reached the  
245 normal retirement date as defined in s. 121.021. The department  
246 may adopt rules to implement this subparagraph. The member must  
247 meet the definition of termination in s. 121.021(39) beginning  
248 the month after receiving a benefit, including a distribution.  
249 Benefits funded by employer and employee contributions are  
250 payable under the terms of the contract to the member, his or  
251 her beneficiary, or his or her estate, in addition to:

252 a. A lump-sum payment to the beneficiary upon the death of  
253 the member;

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

260 c. A mandatory distribution of a de minimis account of a  
261 former member who has been terminated for a minimum of 6

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262 calendar months from the employment that entitled him or her to  
263 optional annuity program participation as authorized by the  
264 department; or

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

270 2. Under the Senior Management Service Optional Annuity  
271 Program, benefits, including employee contributions, are not  
272 payable for employee hardships, unforeseeable emergencies,  
273 loans, medical expenses, educational expenses, purchase of a  
274 principal residence, payments necessary to prevent eviction or  
275 foreclosure on an employee's principal residence, or any other  
276 reason except a requested distribution for retirement, a  
277 mandatory de minimis distribution authorized by the  
278 administrator, or a required minimum distribution provided  
279 pursuant to the Internal Revenue Code ~~before termination from~~  
280 ~~all employment relationships with participating employers for 3~~  
281 ~~calendar months.~~

282 3. The benefits payable to any person under the Senior  
283 Management Service Optional Annuity Program, and any  
284 contribution accumulated under such program, are not subject to  
285 assignment, execution, or attachment or to any legal process  
286 whatsoever.

287 4. Except as provided in subparagraph 5., a member who  
288 terminates employment and receives a distribution, including a  
289 rollover or trustee-to-trustee transfer, funded by employer and  
290 required employee contributions is a retiree of ~~deemed to be~~

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291 ~~retired from~~ a state-administered retirement system. A retiree  
292 of a state-administered retirement system who is initially  
293 reemployed in a regularly established position on or after July  
294 1, 2010, is not eligible to be enrolled in renewed membership if  
295 ~~the member is subsequently employed with an employer that~~  
296 ~~participates in the Florida Retirement System.~~

297 5. A member who receives optional annuity program benefits  
298 funded by employer and employee contributions as a mandatory  
299 distribution of a de minimis account authorized by the  
300 department is not considered a retiree.

301  
302 As used in this paragraph, a "de minimis account" means an  
303 account with a provider company containing employer and employee  
304 contributions and accumulated earnings of not more than \$5,000  
305 made under this chapter.

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

308 121.071 Contributions.—Contributions to the system shall be  
309 made as follows:

310 (7) ~~Before termination of employment,~~ Benefits, including  
311 employee contributions, are not payable under the pension plan  
312 for employee hardships, unforeseeable emergencies, loans,  
313 medical expenses, educational expenses, purchase of a principal  
314 residence, payments necessary to prevent eviction or foreclosure  
315 on an employee's principal residence, or any other reason except  
316 a requested distribution for retirement, a mandatory de minimis  
317 distribution authorized by the administrator, or a required  
318 minimum distribution provided pursuant to the Internal Revenue  
319 Code ~~before termination from all employment relationships with~~

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320 ~~participating employers.~~

321 Section 6. Paragraph (a) of subsection (13) of section  
322 121.091, Florida Statutes, is amended to read:

323 121.091 Benefits payable under the system.—Benefits may not  
324 be paid under this section unless the member has terminated  
325 employment as provided in s. 121.021(39) (a) or begun  
326 participation in the Deferred Retirement Option Program as  
327 provided in subsection (13), and a proper application has been  
328 filed in the manner prescribed by the department. The department  
329 may cancel an application for retirement benefits when the  
330 member or beneficiary fails to timely provide the information  
331 and documents required by this chapter and the department's  
332 rules. The department shall adopt rules establishing procedures  
333 for application for retirement benefits and for the cancellation  
334 of such application when the required information or documents  
335 are not received.

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

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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, are eligible to elect  
360 participation in DROP if:

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 is made within 12 months immediately following the date on which  
369 the member first reaches normal retirement date, or, for a  
370 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 is made within 12 months  
377 immediately following the date on which the member first reaches

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378 normal retirement date, or, for a member who reaches normal  
379 retirement date based on service before he or she reaches age  
380 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  
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 is eligible to elect to participate  
398 in DROP after attaining normal retirement date in either class.

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

404 4. Simultaneous employment of a member by additional  
405 Florida Retirement System employers subsequent to the  
406 commencement of a member's participation in DROP is permissible

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407 if such employers acknowledge in writing a DROP termination date  
408 no later than the member's existing termination date or the  
409 maximum participation period provided in subparagraph (b)1.

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

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

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

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

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

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436 from the total service used to establish the normal retirement  
437 date. A member who has dual normal retirement dates is eligible  
438 to elect to participate in either class.

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

441 121.122 Renewed membership in system.—

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

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

448 121.35 Optional retirement program for the State University  
449 System.—

450 (5) BENEFITS.—

451 (a) Benefits are payable under the optional retirement  
452 program only to vested members participating in the program, or  
453 their beneficiaries as designated by the member in the contract  
454 with a provider company, and such benefits shall be paid only by  
455 the designated company in accordance with s. 403(b) of the  
456 Internal Revenue Code and the terms of the annuity contract or  
457 investment contracts applicable to the member. A benefit under  
458 the optional retirement program is a distribution requested by  
459 the member or surviving beneficiary funded in part or in whole  
460 by employer or required employee contributions, plus earnings,  
461 and includes rolling a distribution over to another qualified  
462 plan. Benefits accrue in individual accounts that are member-  
463 directed, portable, and funded by employer and employee  
464 contributions and the earnings thereon. The member must be



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465 terminated for 3 calendar months from all employment  
466 relationships with all Florida Retirement System employers to  
467 begin receiving the benefit. The department may authorize a  
468 distribution of up to 10 percent of the member's account after  
469 being terminated from employment with all participating  
470 employers for 1 calendar month if the member has reached the  
471 normal retirement date as defined in s. 121.021. The department  
472 may adopt rules to implement this paragraph. Benefits funded by  
473 employer and required employee contributions are payable in  
474 accordance with the following terms and conditions:

475 1. Benefits shall be paid only to a participating member,  
476 to his or her beneficiaries, or to his or her estate, as  
477 designated by the member.

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

481 3. In the event of a member's death, moneys accumulated by,  
482 or on behalf of, the member, less withholding taxes remitted to  
483 the Internal Revenue Service, if any, shall be distributed to  
484 the member's designated beneficiary or beneficiaries, or to the  
485 member's estate, as if the member retired on the date of death,  
486 as provided in paragraph (d). No other death benefits are  
487 available to survivors of members under the optional retirement  
488 program except for such benefits, or coverage for such benefits,  
489 as are separately afforded by the employer, at the employer's  
490 discretion.

491 (b) Benefits, including employee contributions, are not  
492 payable for employee hardships, unforeseeable emergencies,  
493 loans, medical expenses, educational expenses, purchase of a

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494 principal residence, payments necessary to prevent eviction or  
495 foreclosure on an employee's principal residence, or any other  
496 reason except a requested distribution for retirement, a  
497 mandatory de minimis distribution authorized by the  
498 administrator, or a required minimum distribution provided  
499 pursuant to the Internal Revenue Code ~~before termination from~~  
500 ~~all employment relationships with participating employers for 3~~  
501 ~~calendar months.~~

502 (g) Benefits funded by the participating member's voluntary  
503 personal contributions may be paid out after termination from  
504 employment with all participating employers for 3 calendar  
505 months ~~at any time~~ and in any form within the limits provided in  
506 the contract between the member and the provider company. The  
507 member shall notify the provider company regarding the date and  
508 provisions under which he or she wants to receive the employee-  
509 funded portion of the plan.

510 Section 9. Paragraph (e) of subsection (2) and paragraph  
511 (f) of subsection (4) of section 121.4501, Florida Statutes, are  
512 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

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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 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.

535 (4) PARTICIPATION; ENROLLMENT.—

536 (f) A member of the investment plan who takes a  
537 distribution of any contributions from his or her investment  
538 plan account is considered a retiree. A retiree who is initially  
539 reemployed in a regularly established position on or after July  
540 1, 2010, is not eligible to be enrolled in ~~for~~ renewed  
541 membership.

542 Section 10. Section 121.591, Florida Statutes, is amended  
543 to read:

544 121.591 Payment of benefits.—Benefits may not be paid under  
545 the Florida Retirement System Investment Plan unless the member  
546 has terminated employment as provided in s. 121.021(39)(a) or is  
547 deceased and a proper application has been filed as prescribed  
548 by the state board or the department. ~~Before termination of~~  
549 ~~employment,~~ Benefits, including employee contributions, are not  
550 payable under the investment plan for employee hardships,  
551 unforeseeable emergencies, loans, medical expenses, educational

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552 expenses, purchase of a principal residence, payments necessary  
553 to prevent eviction or foreclosure on an employee's principal  
554 residence, or any other reason except a requested distribution  
555 for retirement, a mandatory de minimis distribution authorized  
556 by the administrator, or a required minimum distribution  
557 provided pursuant to the Internal Revenue Code ~~prior to~~  
558 ~~termination from all employment relationships with participating~~  
559 ~~employers.~~ The state board or department, as appropriate, may  
560 cancel an application for retirement benefits if the member or  
561 beneficiary fails to timely provide the information and  
562 documents required by this chapter and the rules of the state  
563 board and department. In accordance with their respective  
564 responsibilities, the state board and the department shall adopt  
565 rules establishing procedures for application for retirement  
566 benefits and for the cancellation of such application if the  
567 required information or documents are not received. The state  
568 board and the department, as appropriate, are authorized to cash  
569 out a de minimis account of a member who has been terminated  
570 from Florida Retirement System covered employment for a minimum  
571 of 6 calendar months. A de minimis account is an account  
572 containing employer and employee contributions and accumulated  
573 earnings of not more than \$5,000 made under the provisions of  
574 this chapter. Such cash-out must be a complete lump-sum  
575 liquidation of the account balance, subject to the provisions of  
576 the Internal Revenue Code, or a lump-sum direct rollover  
577 distribution paid directly to the custodian of an eligible  
578 retirement plan, as defined by the Internal Revenue Code, on  
579 behalf of the member. Any nonvested accumulations and associated  
580 service credit, including amounts transferred to the suspense

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581 account of the Florida Retirement System Investment Plan Trust  
582 Fund authorized under s. 121.4501(6), shall be forfeited upon  
583 payment of any vested benefit to a member or beneficiary, except  
584 for de minimis distributions or minimum required distributions  
585 as provided under this section. If any financial instrument  
586 issued for the payment of retirement benefits under this section  
587 is not presented for payment within 180 days after the last day  
588 of the month in which it was originally issued, the third-party  
589 administrator or other duly authorized agent of the state board  
590 shall cancel the instrument and credit the amount of the  
591 instrument to the suspense account of the Florida Retirement  
592 System Investment Plan Trust Fund authorized under s.  
593 121.4501(6). Any amounts transferred to the suspense account are  
594 payable upon a proper application, not to include earnings  
595 thereon, as provided in this section, within 10 years after the  
596 last day of the month in which the instrument was originally  
597 issued, after which time such amounts and any earnings  
598 attributable to employer contributions shall be forfeited. Any  
599 forfeited amounts are assets of the trust fund and are not  
600 subject to chapter 717.

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

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

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

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

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610           3. The member must be terminated from all employment with  
611 all Florida Retirement System employers, as provided in s.  
612 121.021(39).

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

619           5. If a member or former member of the Florida Retirement  
620 System receives an invalid distribution, such person must either  
621 repay the full amount within 90 days after receipt of final  
622 notification by the state board or the third-party administrator  
623 that the distribution was invalid, or, in lieu of repayment, the  
624 member must terminate employment from all participating  
625 employers. If such person fails to repay the full invalid  
626 distribution within 90 days after receipt of final notification,  
627 the person may be deemed retired from the investment plan by the  
628 state board and is subject to s. 121.122. If such person is  
629 deemed retired, any joint and several liability set out in s.  
630 121.091(9)(d)2. is void, and the state board, the department, or  
631 the employing agency is not liable for gains on payroll  
632 contributions that have not been deposited to the person's  
633 account in the investment plan, pending resolution of the  
634 invalid distribution. The member or former member who has been  
635 deemed retired or who has been determined by the state board to  
636 have taken an invalid distribution may appeal the agency  
637 decision through the complaint process as provided under s.  
638 121.4501(9)(g)3. As used in this subparagraph, the term "invalid

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639 distribution" means any distribution from an account in the  
640 investment plan which is taken in violation of this section, s.  
641 121.091(9), or s. 121.4501.

642 (b) If a member elects to receive his or her benefits upon  
643 termination of employment as defined in s. 121.021, the member  
644 must submit a written application or an application by  
645 electronic means to the third-party administrator indicating his  
646 or her preferred distribution date and selecting an authorized  
647 method of distribution as provided in paragraph (c). The member  
648 may defer receipt of benefits until he or she chooses to make  
649 such application, subject to federal requirements.

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

- 654 1. A lump-sum or partial distribution to the member;
- 655 2. A lump-sum direct rollover distribution whereby all  
656 accrued benefits, plus interest and investment earnings, are  
657 paid from the member's account directly to the custodian of an  
658 eligible retirement plan, as defined in s. 402(c)(8)(B) of the  
659 Internal Revenue Code, on behalf of the member; or
- 660 3. Periodic distributions, as authorized by the state  
661 board.

662 (d) The distribution payment method selected by the member  
663 or beneficiary, and the retirement of the member or beneficiary,  
664 is final and irrevocable at the time a benefit distribution  
665 payment is cashed, deposited, or transferred to another  
666 financial institution. Any additional service that remains  
667 unclaimed at retirement may not be claimed or purchased, and the

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668 type of retirement may not be changed, except that if a member  
669 recovers from a disability, the member may subsequently request  
670 benefits under subsection (2).

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

674 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided under  
675 this subsection are payable in lieu of the benefits that would  
676 otherwise be payable under the provisions of subsection (1).  
677 Such benefits must be funded from employer contributions made  
678 under s. 121.571, transferred employee contributions and funds  
679 accumulated pursuant to paragraph (a), and interest and earnings  
680 thereon.

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

683 1. All moneys accumulated in the member's account,  
684 including vested and nonvested accumulations as described in s.  
685 121.4501(6), must be transferred from such individual accounts  
686 to the division for deposit in the disability account of the  
687 Florida Retirement System Trust Fund. Such moneys must be  
688 accounted for separately. Earnings must be credited on an annual  
689 basis for amounts held in the disability accounts of the Florida  
690 Retirement System Trust Fund based on actual earnings of the  
691 trust fund.

692 2. If the member has retained retirement credit earned  
693 under the pension plan as provided in s. 121.4501(3), a sum  
694 representing the actuarial present value of such credit within  
695 the Florida Retirement System Trust Fund shall be reassigned by  
696 the division from the pension plan to the disability program as



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697 implemented under this subsection and shall be deposited in the  
698 disability account of the trust fund. Such moneys must be  
699 accounted for separately.

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

701 1. A member of the investment plan who becomes totally and  
702 permanently disabled, as defined in paragraph (d), after  
703 completing 8 years of creditable service, or a member who  
704 becomes totally and permanently disabled in the line of duty  
705 regardless of length of service, is entitled to a monthly  
706 disability benefit.

707 2. In order for service to apply toward the 8 years of  
708 creditable service required for regular disability benefits, or  
709 toward the creditable service used in calculating a service-  
710 based benefit as provided under paragraph (g), the service must  
711 be creditable service as described below:

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

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

718 c. If the member elects to transfer to his or her member  
719 accounts a sum representing the present value of his or her  
720 retirement credit under the pension plan as provided under s.  
721 121.4501(3), the period of service under the pension plan  
722 represented in the present value amounts transferred shall be  
723 considered creditable service, except as provided in  
724 subparagraph d.

725 d. If a member has terminated employment and has taken

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726 distribution of his or her funds as provided in subsection (1),  
727 all creditable service represented by such distributed funds is  
728 forfeited for purposes of this subsection.

729 (c) *Disability retirement effective date.*—The effective  
730 retirement date for a member who applies and is approved for  
731 disability retirement shall be established as provided under s.  
732 121.091(4)(a)2. and 3.

733 (d) *Total and permanent disability.*—A member shall be  
734 considered totally and permanently disabled if, in the opinion  
735 of the division, he or she is prevented, by reason of a  
736 medically determinable physical or mental impairment, from  
737 rendering useful and efficient service as an officer or  
738 employee.

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

743 (f) *Disability retirement benefit.*—Upon the disability  
744 retirement of a member under this subsection, the member shall  
745 receive a monthly benefit that begins accruing on the first day  
746 of the month of disability retirement, as approved by the  
747 division, and is payable on the last day of that month and each  
748 month thereafter during his or her lifetime and continued  
749 disability. All disability benefits must be paid out of the  
750 disability account of the Florida Retirement System Trust Fund  
751 established under this subsection.

752 (g) *Computation of disability retirement benefit.*—The  
753 amount of each monthly payment must be calculated as provided  
754 under s. 121.091(4)(f). Creditable service under both the

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755 pension plan and the investment plan shall be applicable as  
756 provided under paragraph (b).

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

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

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

769 1. The member's transfer to the pension plan under  
770 paragraph (i) shall be nullified;

771 2. The member shall be retroactively reinstated in the  
772 investment plan without hiatus;

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

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

778 (k) *Recovery from disability*.—

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

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784           2. Upon recovery from disability, the recipient of  
785 disability retirement benefits under this subsection shall be a  
786 compulsory member of the investment plan. The net difference  
787 between the recipient's original account balance transferred to  
788 the Florida Retirement System Trust Fund, including earnings and  
789 total disability benefits paid to such recipient, if any, shall  
790 be determined as provided in sub-subparagraph a.

791           a. An amount equal to the total benefits paid shall be  
792 subtracted from that portion of the transferred account balance  
793 consisting of vested accumulations as described under s.  
794 121.4501(6), if any, and an amount equal to the remainder of  
795 benefit amounts paid, if any, shall be subtracted from any  
796 remaining nonvested accumulations.

797           b. Amounts subtracted under sub-subparagraph a. must be  
798 retained within the disability account of the Florida Retirement  
799 System Trust Fund. Any remaining account balance shall be  
800 transferred to the third-party administrator for disposition as  
801 provided under sub-subparagraph c. or sub-subparagraph d., as  
802 appropriate.

803           c. If the recipient returns to covered employment,  
804 transferred amounts must be deposited in individual accounts  
805 under the investment plan, as directed by the member. Vested and  
806 nonvested amounts shall be accounted for separately as provided  
807 in s. 121.4501(6).

808           d. If the recipient fails to return to covered employment  
809 upon recovery from disability:

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

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

816 3. If present value was reassigned from the pension plan to  
817 the disability program as provided under subparagraph (a)2., the  
818 full present value amount must be returned to the defined  
819 benefit account within the Florida Retirement System Trust Fund  
820 and the member's associated retirement credit under the pension  
821 plan must be reinstated in full. Any benefit based upon such  
822 credit must be calculated as provided in s. 121.091(4)(h)1.

823 (l) *Nonadmissible causes of disability.*—A member is not  
824 entitled to a disability retirement benefit if the disability  
825 results from any injury or disease as described in s.  
826 121.091(4)(i).

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

829 1. If a member is a justice of the Supreme Court, judge of  
830 a district court of appeal, circuit judge, or judge of a county  
831 court who has served for the years equal to, or greater than,  
832 the vesting requirement in s. 121.021(45) as an elected  
833 constitutional judicial officer, including service as a judicial  
834 officer in any court abolished pursuant to Art. V of the State  
835 Constitution, and who is retired for disability pursuant to s.  
836 12, Art. V of the State Constitution, the member's Option 1  
837 monthly disability benefit amount as provided in s.  
838 121.091(6)(a)1. shall be two-thirds of his or her monthly  
839 compensation as of the member's disability retirement date. The  
840 member may alternatively elect to receive an actuarially  
841 adjusted disability retirement benefit under any other option as

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842 provided in s. 121.091(6)(a) or to receive the normal benefit  
843 payable under subsection (1).

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

848 a. Any present value amount that was transferred to his or  
849 her investment plan account and all employer and employee  
850 contributions made to such account on his or her behalf, plus  
851 interest and earnings thereon, must be transferred to and  
852 deposited in the disability account of the Florida Retirement  
853 System Trust Fund; and

854 b. The monthly disability benefits payable under this  
855 paragraph shall be paid from the disability account of the  
856 Florida Retirement System Trust Fund.

857 (n) *Death of retiree or beneficiary.*—Upon the death of a  
858 disabled retiree or beneficiary of the retiree who is receiving  
859 monthly disability benefits under this subsection, the monthly  
860 benefits shall be paid through the last day of the month of  
861 death and shall terminate, or be adjusted, if applicable, as of  
862 that date in accordance with the optional form of benefit  
863 selected at the time of retirement. The department may adopt  
864 rules necessary to administer this paragraph.

865 (3) DEATH BENEFITS.—Under the Florida Retirement System  
866 Investment Plan:

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

869 1. To the extent vested, benefits are payable only to a  
870 member's beneficiary or beneficiaries as designated by the

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871 member as provided in s. 121.4501(20).

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

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

876 (b) In the event of a member's death, all vested  
877 accumulations as described in s. 121.4501(6), less withholding  
878 taxes remitted to the Internal Revenue Service, shall be  
879 distributed, as provided in paragraph (c) or as described in s.  
880 121.4501(20), as if the member retired on the date of death. No  
881 other death benefits are available for survivors of members,  
882 except for benefits, or coverage for benefits, as are otherwise  
883 provided by law or separately provided by the employer, at the  
884 employer's discretion.

885 (c) Upon receipt by the third-party administrator of a  
886 properly executed application for distribution of benefits, the  
887 total accumulated benefit is payable by the third-party  
888 administrator to the member's surviving beneficiary or  
889 beneficiaries, as:

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

892 2. An eligible rollover distribution, if permitted, on  
893 behalf of the surviving spouse of a deceased member, whereby all  
894 accrued benefits, plus interest and investment earnings, are  
895 paid from the deceased member's account directly to the  
896 custodian of an eligible retirement plan, as described in s.  
897 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
898 surviving spouse; or

899 3. A partial lump-sum payment whereby a portion of the

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900 accrued benefit is paid to the deceased member's surviving  
901 spouse or other designated beneficiaries, less withholding taxes  
902 remitted to the Internal Revenue Service, and the remaining  
903 amount is transferred directly to the custodian of an eligible  
904 retirement plan, if permitted, as described in s. 402(c)(8)(B)  
905 of the Internal Revenue Code, on behalf of the surviving spouse.  
906 The proportions must be specified by the member or the surviving  
907 beneficiary.

908  
909 This paragraph does not abrogate other applicable provisions of  
910 state or federal law providing for payment of death benefits.

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

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

920 1012.875 State Community College System Optional Retirement  
921 Program.—Each Florida College System institution may implement  
922 an optional retirement program, if such program is established  
923 therefor pursuant to s. 1001.64(20), under which annuity or  
924 other contracts providing retirement and death benefits may be  
925 purchased by, and on behalf of, eligible employees who  
926 participate in the program, in accordance with s. 403(b) of the  
927 Internal Revenue Code. Except as otherwise provided herein, this  
928 retirement program, which shall be known as the State Community



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929 College System Optional Retirement Program, may be implemented  
930 and administered only by an individual Florida College System  
931 institution or by a consortium of Florida College System  
932 institutions.

933 (5)

934 (b) Benefits are payable under the optional retirement  
935 program to program participants or their beneficiaries and paid  
936 only by the designated company in accordance with the terms of  
937 the contracts applicable to the program participant. Benefits  
938 shall accrue in individual accounts that are participant-  
939 directed, portable, and funded by employer and employee  
940 contributions and the earnings thereon. Benefit payments may not  
941 be made until the member has been terminated for 3 calendar  
942 months, except the college may authorize a distribution of up to  
943 10 percent of the member's account after the member is  
944 terminated from employment with all Florida Retirement System  
945 participating employers for 1 calendar month if the member has  
946 reached the normal retirement date as defined in s. 121.021. The  
947 board of trustees for the college may adopt rules to implement  
948 this paragraph. Benefits funded by employer and employee  
949 contributions are payable in accordance with the following terms  
950 and conditions:

951 1. Benefits shall be payable only to a participant, to his  
952 or her beneficiaries, or to his or her estate, as designated by  
953 the participant.

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

957 3. In the event of a participant's death, moneys

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958 accumulated by, or on behalf of, the participant, less  
959 withholding taxes remitted to the Internal Revenue Service, if  
960 any, shall be distributed to the participant's designated  
961 beneficiary or beneficiaries, or to the participant's estate, as  
962 if the participant retired on the date of death as provided in  
963 paragraph (d). No other death benefits are available for  
964 survivors of participants under the optional retirement program  
965 except for such benefits, or coverage for such benefits, as are  
966 separately afforded by the employer at the employer's  
967 discretion.

968 (7) Benefits, including employee contributions, are not  
969 payable for employee hardships, unforeseeable emergencies,  
970 loans, medical expenses, educational expenses, purchase of a  
971 principal residence, payments necessary to prevent eviction or  
972 foreclosure on an employee's principal residence, or any other  
973 reason except a requested distribution for retirement, a  
974 mandatory de minimis distribution authorized by the  
975 administrator, or a required minimum distribution provided  
976 pursuant to the Internal Revenue Code ~~before termination from~~  
977 ~~all employment relationships with participating employers for 3~~  
978 ~~calendar months.~~

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