

By Senator Brandes

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1 A bill to be entitled
2 An act relating to the Florida Retirement System;
3 amending s. 121.051, F.S.; providing for compulsory
4 membership in the Florida Retirement System Investment
5 Plan for employees in the Elected Officers' Class or
6 the Senior Management Service Class initially enrolled
7 after a specified date; amending s. 121.052, F.S.;
8 prohibiting members of the Elected Officers' Class
9 from joining the Senior Management Service Class after
10 a specified date; amending s. 121.055, F.S.;
11 prohibiting an elected official eligible for
12 membership in the Elected Officers' Class from
13 enrolling in the Senior Management Service Class or in
14 the Senior Management Service Optional Annuity
15 Program; closing the Senior Management Optional
16 Annuity Program to new members by a specified date;
17 amending s. 121.4501, F.S.; requiring certain
18 employees initially enrolled in the Florida Retirement
19 System on or after a specified date to be compulsory
20 members of the investment plan; conforming provisions
21 to changes made by the act; amending ss. 238.072 and
22 413.051, F.S.; conforming cross-references; providing
23 that the act fulfills an important state interest;
24 providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Subsections (3) through (9) of section 121.051,
29 Florida Statutes, are redesignated as subsections (4) through

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30 (10), respectively, and a new subsection (3) is added to that
31 section, to read:

32 121.051 Participation in the system.—

33 (3) INVESTMENT PLAN MEMBERSHIP COMPULSORY.—

34 (a) Employees initially enrolled on or after July 1, 2014,
35 in positions covered by the Elected Officers' Class or the
36 Senior Management Service Class are compulsory members of the
37 investment plan, except those eligible to withdraw from the
38 system under s. 121.052(3)(d) or s. 121.055(1)(b)2., or those
39 eligible for optional retirement programs under paragraph
40 (1)(a), paragraph (2)(c), or s. 121.35. Investment plan
41 membership continues if there is subsequent employment in a
42 position covered by another membership class. Membership in the
43 pension plan is not permitted except as provided in s.
44 121.591(2). Employees initially enrolled in the Florida
45 Retirement System by June 30, 2014, may retain their membership
46 in the pension plan or investment plan and are eligible to use
47 the election opportunity specified in s. 121.4501(4)(f).
48 Employees initially enrolled on or after July 1, 2014, are not
49 eligible to use the election opportunity specified in s.
50 121.4501(4)(f).

51 (b) Employees eligible to withdraw from the system under s.
52 121.052(3)(d) or s. 121.055(1)(b)2. may choose to withdraw from
53 the system or to participate in the investment plan as provided
54 in these sections. Employees eligible for optional retirement
55 programs under paragraph (2)(c) or s. 121.35 may choose to
56 participate in the optional retirement program or the investment
57 plan as provided in this paragraph or this section. Eligible
58 employees required to participate pursuant to paragraph (1)(a)

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59 in the optional retirement program as provided under s. 121.35
60 must participate in the investment plan when employed in a
61 position not eligible for the optional retirement program.

62 Section 2. Paragraph (c) of subsection (3) of section
63 121.052, Florida Statutes, is amended to read:

64 121.052 Membership class of elected officers.—

65 (3) PARTICIPATION AND WITHDRAWAL, GENERALLY.—Effective July
66 1, 1990, participation in the Elected Officers' Class shall be
67 compulsory for elected officers listed in paragraphs (2)(a)-(d)
68 and (f) assuming office on or after said date, unless the
69 elected officer elects membership in another class or withdraws
70 from the Florida Retirement System as provided in paragraphs
71 (3)(a)-(d):

72 (c) On or before June 30, 2014, any elected officer may,
73 within 6 months after assuming office, or within 6 months after
74 this act becomes a law for serving elected officers, elect
75 membership in the Senior Management Service Class as provided in
76 s. 121.055 in lieu of membership in the Elected Officers' Class.
77 Any such election made by a county elected officer shall have no
78 effect upon the statutory limit on the number of nonelective
79 full-time positions that may be designated by a local agency
80 employer for inclusion in the Senior Management Service Class
81 under s. 121.055(1)(b)1.

82 Section 3. Paragraph (f) of subsection (1) and paragraph
83 (c) of subsection (6) of section 121.055, Florida Statutes, are
84 amended to read:

85 121.055 Senior Management Service Class.—There is hereby
86 established a separate class of membership within the Florida
87 Retirement System to be known as the "Senior Management Service

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88 Class," which shall become effective February 1, 1987.

89 (1)

90 (f) Effective July 1, 1997, through June 30, 2014:

91 1. Except as provided in subparagraphs ~~subparagraph~~ 3. and
92 4., an elected state officer eligible for membership in the
93 Elected Officers' Class under s. 121.052(2)(a), (b), or (c) who
94 elects membership in the Senior Management Service Class under
95 s. 121.052(3)(c) may, within 6 months after assuming office or
96 within 6 months after this act becomes a law for serving elected
97 state officers, elect to participate in the Senior Management
98 Service Optional Annuity Program, as provided in subsection (6),
99 in lieu of membership in the Senior Management Service Class.

100 2. Except as provided in subparagraph 3., an elected
101 officer of a local agency employer eligible for membership in
102 the Elected Officers' Class under s. 121.052(2)(d) who elects
103 membership in the Senior Management Service Class under s.
104 121.052(3)(c) may, within 6 months after assuming office, or
105 within 6 months after this act becomes a law for serving elected
106 officers of a local agency employer, elect to withdraw from the
107 Florida Retirement System, as provided in subparagraph (b)2., in
108 lieu of membership in the Senior Management Service Class.

109 3. A retiree of a state-administered retirement system who
110 is initially reemployed in a regularly established position on
111 or after July 1, 2010, as an elected official eligible for the
112 Elected Officers' Class may not be enrolled in renewed
113 membership in the Senior Management Service Class or in the
114 Senior Management Service Optional Annuity Program as provided
115 in subsection (6), and may not withdraw from the Florida
116 Retirement System as a renewed member as provided in

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117 subparagraph (b)2., as applicable, in lieu of membership in the
118 Senior Management Service Class.

119 4. On or after July 1, 2014, an elected officer eligible
120 for membership in the Elected Officers' Class may not be
121 enrolled in the Senior Management Service Class or in the Senior
122 Management Service Optional Annuity Program as provided in
123 subsection (6).

124 (6)

125 (c) *Participation.*—

126 1. An eligible employee who is employed on or before
127 February 1, 1987, may elect to participate in the optional
128 annuity program in lieu of participating in the Senior
129 Management Service Class. Such election must be made in writing
130 and filed with the department and the personnel officer of the
131 employer on or before May 1, 1987. An eligible employee who is
132 employed on or before February 1, 1987, and who fails to make an
133 election to participate in the optional annuity program by May
134 1, 1987, shall be deemed to have elected membership in the
135 Senior Management Service Class.

136 2. Except as provided in subparagraph 6., an employee who
137 becomes eligible to participate in the optional annuity program
138 by reason of initial employment commencing after February 1,
139 1987, may, within 90 days after the date of commencing
140 employment, elect to participate in the optional annuity
141 program. Such election must be made in writing and filed with
142 the personnel officer of the employer. An eligible employee who
143 does not within 90 days after commencing employment elect to
144 participate in the optional annuity program shall be deemed to
145 have elected membership in the Senior Management Service Class.

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146 3. A person who is appointed to a position in the Senior
147 Management Service Class and who is a member of an existing
148 retirement system or the Special Risk or Special Risk
149 Administrative Support Classes of the Florida Retirement System
150 may elect to remain in such system or class in lieu of
151 participating in the Senior Management Service Class or optional
152 annuity program. Such election must be made in writing and filed
153 with the department and the personnel officer of the employer
154 within 90 days after such appointment. An eligible employee who
155 fails to make an election to participate in the existing system,
156 the Special Risk Class of the Florida Retirement System, the
157 Special Risk Administrative Support Class of the Florida
158 Retirement System, or the optional annuity program shall be
159 deemed to have elected membership in the Senior Management
160 Service Class.

161 4. Except as provided in subparagraph 5., an employee's
162 election to participate in the optional annuity program is
163 irrevocable if the employee continues to be employed in an
164 eligible position and continues to meet the eligibility
165 requirements set forth in this paragraph.

166 5. Effective from July 1, 2002, through September 30, 2002,
167 an active employee in a regularly established position who has
168 elected to participate in the Senior Management Service Optional
169 Annuity Program has one opportunity to choose to move from the
170 Senior Management Service Optional Annuity Program to the
171 Florida Retirement System Pension Plan.

172 a. The election must be made in writing and must be filed
173 with the department and the personnel officer of the employer
174 before October 1, 2002, or, in the case of an active employee

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175 who is on a leave of absence on July 1, 2002, within 90 days
176 after the conclusion of the leave of absence. This election is
177 irrevocable.

178 b. The employee shall receive service credit under the
179 pension plan equal to his or her years of service under the
180 Senior Management Service Optional Annuity Program. The cost for
181 such credit is the amount representing the present value of that
182 employee's accumulated benefit obligation for the affected
183 period of service.

184 c. The employee must transfer the total accumulated
185 employer contributions and earnings on deposit in his or her
186 Senior Management Service Optional Annuity Program account. If
187 the transferred amount is not sufficient to pay the amount due,
188 the employee must pay a sum representing the remainder of the
189 amount due. The employee may not retain any employer
190 contributions or earnings from the Senior Management Service
191 Optional Annuity Program account.

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

196 7. Effective July 1, 2014, the Senior Management Service
197 Optional Annuity Program is closed to new members. Members
198 enrolled in the Senior Management Service Optional Annuity
199 Program on or before June 30, 2014, may retain their membership
200 in the annuity program.

201 Section 4. Subsection (1) and paragraph (g) of subsection
202 (4) of section 121.4501, Florida Statutes, are amended, and
203 paragraph (h) is added to subsection (4) of that section, to

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204 read:

205 121.4501 Florida Retirement System Investment Plan.—

206 (1) The Trustees of the State Board of Administration shall
207 establish a defined contribution program called the "Florida
208 Retirement System Investment Plan" or "investment plan" for
209 members of the Florida Retirement System under which retirement
210 benefits will be provided for eligible employees who elect to
211 participate in the program and for employees initially enrolled
212 on or after July 1, 2014, in positions covered by the Elected
213 Officers' Class or the Senior Management Service Class.
214 Employees initially enrolled on or after July 1, 2014, in
215 positions covered by the Elected Officers' Class or the Senior
216 Management Service Class are compulsory members of the
217 investment plan unless otherwise eligible to withdraw from the
218 system under s. 121.052(3)(d) or s. 121.055(1)(b)2., or to
219 participate in an optional retirement program under s.
220 121.051(1)(a), s. 121.051(2)(c), or s. 121.35. Investment plan
221 membership continues if there is subsequent employment in a
222 position covered by another membership class for employees
223 initially enrolled on or after July 1, 2014, in positions
224 covered by the Elected Officers' Class or the Senior Management
225 Service Class. The retirement benefits shall be provided through
226 member-directed investments, in accordance with s. 401(a) of the
227 Internal Revenue Code and related regulations. The employer and
228 employee shall make contributions, as provided in this section
229 and ss. 121.571 and 121.71, to the Florida Retirement System
230 Investment Plan Trust Fund toward the funding of benefits.

231 (4) PARTICIPATION; ENROLLMENT.—

232 (g) After the period during which an eligible employee had

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233 the choice to elect the pension plan or the investment plan, or
234 the month following the receipt of the eligible employee's plan
235 election, if sooner, the employee shall have one opportunity, at
236 the employee's discretion, to choose to move from the pension
237 plan to the investment plan or from the investment plan to the
238 pension plan. Eligible employees may elect to move between plans
239 only if they are earning service credit in an employer-employee
240 relationship consistent with s. 121.021(17)(b), excluding leaves
241 of absence without pay. Effective July 1, 2005, such elections
242 are effective on the first day of the month following the
243 receipt of the election by the third-party administrator and are
244 not subject to the requirements regarding an employer-employee
245 relationship or receipt of contributions for the eligible
246 employee in the effective month, except when the election is
247 received by the third-party administrator. This paragraph is
248 contingent upon approval by the Internal Revenue Service. This
249 paragraph is not applicable to compulsory investment plan
250 members under paragraph (h).

251 1. If the employee chooses to move to the investment plan,
252 the provisions of subsection (3) govern the transfer.

253 2. If the employee chooses to move to the pension plan, the
254 employee must transfer from his or her investment plan account,
255 and from other employee moneys as necessary, a sum representing
256 the present value of that employee's accumulated benefit
257 obligation immediately following the time of such movement,
258 determined assuming that attained service equals the sum of
259 service in the pension plan and service in the investment plan.
260 Benefit commencement occurs on the first date the employee is
261 eligible for unreduced benefits, using the discount rate and

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262 other relevant actuarial assumptions that were used to value the
263 pension plan liabilities in the most recent actuarial valuation.
264 For any employee who, at the time of the second election,
265 already maintains an accrued benefit amount in the pension plan,
266 the then-present value of the accrued benefit is deemed part of
267 the required transfer amount. The division must ensure that the
268 transfer sum is prepared using a formula and methodology
269 certified by an enrolled actuary. A refund of any employee
270 contributions or additional member payments made which exceed
271 the employee contributions that would have accrued had the
272 member remained in the pension plan and not transferred to the
273 investment plan is not permitted.

274 3. Notwithstanding subparagraph 2., an employee who chooses
275 to move to the pension plan and who became eligible to
276 participate in the investment plan by reason of employment in a
277 regularly established position with a state employer after June
278 1, 2002; a district school board employer after September 1,
279 2002; or a local employer after December 1, 2002, must transfer
280 from his or her investment plan account, and from other employee
281 moneys as necessary, a sum representing the employee's actuarial
282 accrued liability. A refund of any employee contributions or
283 additional participant payments made which exceed the employee
284 contributions that would have accrued had the member remained in
285 the pension plan and not transferred to the investment plan is
286 not permitted.

287 4. An employee's ability to transfer from the pension plan
288 to the investment plan pursuant to paragraphs (a)-(d), and the
289 ability of a current employee to have an option to later
290 transfer back into the pension plan under subparagraph 2., shall

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291 be deemed a significant system amendment. Pursuant to s.
292 121.031(4), any resulting unfunded liability arising from actual
293 original transfers from the pension plan to the investment plan
294 must be amortized within 30 plan years as a separate unfunded
295 actuarial base independent of the reserve stabilization
296 mechanism defined in s. 121.031(3)(f). For the first 25 years, a
297 direct amortization payment may not be calculated for this base.
298 During this 25-year period, the separate base shall be used to
299 offset the impact of employees exercising their second program
300 election under this paragraph. The actuarial funded status of
301 the pension plan will not be affected by such second program
302 elections in any significant manner, after due recognition of
303 the separate unfunded actuarial base. Following the initial 25-
304 year period, any remaining balance of the original separate base
305 shall be amortized over the remaining 5 years of the required
306 30-year amortization period.

307 5. If the employee chooses to transfer from the investment
308 plan to the pension plan and retains an excess account balance
309 in the investment plan after satisfying the buy-in requirements
310 under this paragraph, the excess may not be distributed until
311 the member retires from the pension plan. The excess account
312 balance may be rolled over to the pension plan and used to
313 purchase service credit or upgrade creditable service in the
314 pension plan.

315 (h)1. All employees initially enrolled on or after July 1,
316 2014, in positions covered by the Elected Officers' Class or the
317 Senior Management Service Class are compulsory members of the
318 investment plan, except those eligible to withdraw from the
319 system under s. 121.052(3)(d) or s. 121.055(1)(b)2., or those

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320 eligible for optional retirement programs under s.
321 121.051(1) (a), s. 121.051(2) (c), or s. 121.35. Employees
322 eligible to withdraw from the system under s. 121.052(3) (d) or
323 s. 121.055(1) (b)2. may choose to withdraw from the system or to
324 participate in the investment plan as provided in those
325 sections. Employees eligible for optional retirement programs
326 under s. 121.051(2) (c) or s. 121.35, except as provided in s.
327 121.051(1) (a), may choose to participate in the optional
328 retirement program or the investment plan as provided in those
329 sections. Investment plan membership continues if there is
330 subsequent employment in a position covered by another
331 membership class. Membership in the pension plan is not
332 permitted except as provided in s. 121.591(2). Employees
333 initially enrolled in the Florida Retirement System on or before
334 June 30, 2014, may retain their membership in the pension plan
335 or investment plan and are eligible to use the election
336 opportunity specified in paragraph (g).

337 2. Employees initially enrolled in positions covered by the
338 Elected Officers' class or the Senior Management Service Class
339 on or after July 1, 2014, are not permitted to use the election
340 opportunity specified in paragraph (g).

341 Section 5. Section 238.072, Florida Statutes, is amended to
342 read:

343 238.072 Special service provisions for extension
344 personnel.—All state and county cooperative extension personnel
345 holding appointments by the United States Department of
346 Agriculture for extension work in agriculture and home economics
347 in this state who are joint representatives of the University of
348 Florida and the United States Department of Agriculture, as

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349 provided in s. 121.051(8) ~~121.051(7)~~, who are members of the
350 Teachers' Retirement System, chapter 238, and who are prohibited
351 from transferring to and participating in the Florida Retirement
352 System, chapter 121, may retire with full benefits upon
353 completion of 30 years of creditable service and shall be
354 considered to have attained normal retirement age under this
355 chapter, any law to the contrary notwithstanding. In order to
356 comply with the provisions of s. 14, Art. X of the State
357 Constitution, any liability accruing to the Florida Retirement
358 System Trust Fund as a result of the provisions of this section
359 shall be paid on an annual basis from the General Revenue Fund.

360 Section 6. Subsection (11) of section 413.051, Florida
361 Statutes, is amended to read:

362 413.051 Eligible blind persons; operation of vending
363 stands.—

364 (11) Effective July 1, 1996, blind licensees who remain
365 members of the Florida Retirement System pursuant to s.
366 121.051(7)(b)1. ~~121.051(6)(b)1.~~ shall pay any unappropriated
367 retirement costs from their net profits or from program income.
368 Within 30 days after the effective date of this act, each blind
369 licensee who is eligible to maintain membership in the Florida
370 Retirement System under s. 121.051(7)(b)1. ~~121.051(6)(b)1.~~, but
371 who elects to withdraw from the system as provided in s.
372 121.051(7)(b)3. ~~121.051(6)(b)3.~~, must, on or before July 31,
373 1996, notify the Division of Blind Services and the Department
374 of Management Services in writing of his or her election to
375 withdraw. Failure to timely notify the divisions shall be deemed
376 a decision to remain a compulsory member of the Florida
377 Retirement System. However, if, at any time after July 1, 1996,

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378 sufficient funds are not paid by a blind licensee to cover the
379 required contribution to the Florida Retirement System, that
380 blind licensee shall become ineligible to participate in the
381 Florida Retirement System on the last day of the first month for
382 which no contribution is made or the amount contributed is
383 insufficient to cover the required contribution. For any blind
384 licensee who becomes ineligible to participate in the Florida
385 Retirement System as described in this subsection, no creditable
386 service shall be earned under the Florida Retirement System for
387 any period following the month that retirement contributions
388 ceased to be reported. However, any such person may participate
389 in the Florida Retirement System in the future if employed by a
390 participating employer in a covered position.

391 Section 7. The Legislature finds that a proper and
392 legitimate state purpose is served when employees and retirees
393 of the state and its political subdivisions, and the dependents,
394 survivors, and beneficiaries of such employees and retirees, are
395 extended the basic protections afforded by governmental
396 retirement systems. These persons must be provided benefits that
397 are fair and adequate and that are managed, administered, and
398 funded in an actuarially sound manner, as required by s. 14,
399 Article X of the State Constitution and part VII of chapter 112,
400 Florida Statutes. Therefore, the Legislature determines and
401 declares that this act fulfills an important state interest.

402 Section 8. This act shall take effect July 1, 2014.