

By the Committee on Governmental Oversight and Accountability

585-03644-15

20157082__

1 A bill to be entitled
2 An act relating to death benefits under the Florida
3 Retirement System; amending s. 121.091, F.S.;
4 authorizing payment of death benefits to the surviving
5 spouse or children of a Special Risk Class member
6 killed in the line of duty under specified
7 circumstances; specifying eligibility; amending s.
8 121.571, F.S.; conforming provisions to changes made
9 by the act; amending s. 121.591, F.S.; authorizing
10 payment of death benefits to the surviving spouse or
11 surviving children of a Special Risk Class member in
12 the investment plan; establishing qualifications and
13 eligibility requirements in order to receive such
14 benefits; prescribing the method of calculating the
15 benefit; specifying circumstances under which benefit
16 payments are terminated; creating s. 121.5912, F.S.;
17 providing legislative intent; requiring the State
18 Board of Administration or the Division of Retirement
19 to take certain action upon receipt of notification of
20 disqualification from the Internal Revenue Service;
21 authorizing the state board and the Department of
22 Management Services to adopt rules; creating s.
23 121.735, F.S.; providing for allocations for death
24 benefits authorized by the act; amending s. 121.75,
25 F.S.; adding a cross-reference to conform to changes
26 made by the act; adjusting employer contribution rates
27 in order to fund changes made by the act; providing a
28 directive to the Division of Law Revision and
29 Information; declaring that the act fulfills an

585-03644-15

20157082__

30 important state interest; providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Paragraph (d) of subsection (7) of section
35 121.091, Florida Statutes, is amended, and paragraph (i) is
36 added to that subsection, to read:

37 121.091 Benefits payable under the system.—Benefits may not
38 be paid under this section unless the member has terminated
39 employment as provided in s. 121.021(39) (a) or begun
40 participation in the Deferred Retirement Option Program as
41 provided in subsection (13), and a proper application has been
42 filed in the manner prescribed by the department. The department
43 may cancel an application for retirement benefits when the
44 member or beneficiary fails to timely provide the information
45 and documents required by this chapter and the department's
46 rules. The department shall adopt rules establishing procedures
47 for application for retirement benefits and for the cancellation
48 of such application when the required information or documents
49 are not received.

50 (7) DEATH BENEFITS.—

51 (d) Notwithstanding any other provision in this chapter to
52 the contrary, with the exception of the Deferred Retirement
53 Option Program, as provided in subsection (13):

54 1. The surviving spouse of any member killed in the line of
55 duty may receive a monthly pension equal to one-half of the
56 monthly salary being received by the member at the time of death
57 for the rest of the surviving spouse's lifetime or, if the
58 member was vested, such surviving spouse may elect to receive a

585-03644-15

20157082__

59 benefit as provided in paragraph (b). Benefits provided by this
60 paragraph shall supersede any other distribution that may have
61 been provided by the member's designation of beneficiary.

62 2. If the surviving spouse of a member killed in the line
63 of duty dies, the monthly payments which would have been payable
64 to such surviving spouse had such surviving spouse lived shall
65 be paid for the use and benefit of such member's child or
66 children under 18 years of age and unmarried until the 18th
67 birthday of the member's youngest child. Beginning July 1, 2015,
68 such monthly payments may be extended for a child of a member in
69 the Special Risk Class when killed on or after July 1, 2013,
70 until the 25th birthday of such child if the child is unmarried
71 and enrolled as a full-time student.

72 3. If a member killed in the line of duty leaves no
73 surviving spouse but is survived by a child or children under 18
74 years of age, the benefits provided by subparagraph 1., normally
75 payable to a surviving spouse, shall be paid for the use and
76 benefit of such member's child or children under 18 years of age
77 and unmarried until the 18th birthday of the member's youngest
78 child. Beginning July 1, 2015, such monthly payments may be
79 extended for a child of a member in the Special Risk Class when
80 killed on or after July 1, 2013, until the 25th birthday of such
81 child if the child is unmarried and enrolled as a full-time
82 student.

83 4. The surviving spouse of a member whose benefit
84 terminated because of remarriage shall have the benefit
85 reinstated beginning July 1, 1993, at an amount that would have
86 been payable had the benefit not been terminated.

87 (i) Notwithstanding any other provision in this chapter to

585-03644-15

20157082__

88 the contrary, with the exception of the Deferred Retirement
89 Option Program, as provided in subsection (13), for a member in
90 the Special Risk Class when killed in the line of duty on or
91 after July 1, 2013, the following benefits are payable in
92 addition to the benefits provided in paragraph (d) beginning on
93 or after July 1, 2015:

94 1. The surviving spouse may receive a monthly pension equal
95 to one-half of the monthly salary being received by the member
96 at the time of death for the rest of the surviving spouse's
97 lifetime or, if the member was vested, such surviving spouse may
98 elect to receive a benefit as provided in paragraph (b).
99 Benefits provided by this paragraph shall supersede any other
100 distribution that may have been provided by the member's
101 designation of beneficiary.

102 2. If the surviving spouse dies, the monthly payments which
103 would have been payable to such surviving spouse had such
104 surviving spouse lived shall be paid for the use and benefit of
105 such member's child or children under 18 years of age and
106 unmarried until the 18th birthday of the member's youngest
107 child. Such monthly payments may be extended beyond this period
108 until the 25th birthday of the member's child if the child is
109 unmarried and enrolled as a full-time student.

110 3. If the member leaves no surviving spouse but is survived
111 by a child or children under 18 years of age, the benefits
112 provided by subparagraph 1., normally payable to a surviving
113 spouse, shall be paid for the use and benefit of such member's
114 child or children under 18 years of age and unmarried until the
115 18th birthday of the member's youngest child. Such monthly
116 payments may be extended beyond this period until the 25th

585-03644-15

20157082__

117 birthday of the member's child if the child is unmarried and
118 enrolled as a full-time student.

119 Section 2. Subsection (2) of section 121.571, Florida
120 Statutes, is amended to read:

121 121.571 Contributions.—Contributions to the Florida
122 Retirement System Investment Plan shall be made as follows:

123 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund the
124 retirement, and disability, and line-of-duty death benefits
125 provided under this part must be based on the uniform
126 contribution rates established by s. 121.71 and on the
127 membership class or subclass of the member. Such contributions
128 must be allocated as provided in ss. 121.72, and 121.73, and
129 121.735.

130 Section 3. Subsection (3) of section 121.591, Florida
131 Statutes, is amended, present subsection (4) of that section is
132 redesignated as subsection (5), and a new subsection (4) is
133 added to that section, to read:

134 121.591 Payment of benefits.—Benefits may not be paid under
135 the Florida Retirement System Investment Plan unless the member
136 has terminated employment as provided in s. 121.021(39)(a) or is
137 deceased and a proper application has been filed as prescribed
138 by the state board or the department. Benefits, including
139 employee contributions, are not payable under the investment
140 plan for employee hardships, unforeseeable emergencies, loans,
141 medical expenses, educational expenses, purchase of a principal
142 residence, payments necessary to prevent eviction or foreclosure
143 on an employee's principal residence, or any other reason except
144 a requested distribution for retirement, a mandatory de minimis
145 distribution authorized by the administrator, or a required

585-03644-15

20157082__

146 minimum distribution provided pursuant to the Internal Revenue
147 Code. The state board or department, as appropriate, may cancel
148 an application for retirement benefits if the member or
149 beneficiary fails to timely provide the information and
150 documents required by this chapter and the rules of the state
151 board and department. In accordance with their respective
152 responsibilities, the state board and the department shall adopt
153 rules establishing procedures for application for retirement
154 benefits and for the cancellation of such application if the
155 required information or documents are not received. The state
156 board and the department, as appropriate, are authorized to cash
157 out a de minimis account of a member who has been terminated
158 from Florida Retirement System covered employment for a minimum
159 of 6 calendar months. A de minimis account is an account
160 containing employer and employee contributions and accumulated
161 earnings of not more than \$5,000 made under the provisions of
162 this chapter. Such cash-out must be a complete lump-sum
163 liquidation of the account balance, subject to the provisions of
164 the Internal Revenue Code, or a lump-sum direct rollover
165 distribution paid directly to the custodian of an eligible
166 retirement plan, as defined by the Internal Revenue Code, on
167 behalf of the member. Any nonvested accumulations and associated
168 service credit, including amounts transferred to the suspense
169 account of the Florida Retirement System Investment Plan Trust
170 Fund authorized under s. 121.4501(6), shall be forfeited upon
171 payment of any vested benefit to a member or beneficiary, except
172 for de minimis distributions or minimum required distributions
173 as provided under this section. If any financial instrument
174 issued for the payment of retirement benefits under this section

585-03644-15

20157082__

175 is not presented for payment within 180 days after the last day
176 of the month in which it was originally issued, the third-party
177 administrator or other duly authorized agent of the state board
178 shall cancel the instrument and credit the amount of the
179 instrument to the suspense account of the Florida Retirement
180 System Investment Plan Trust Fund authorized under s.
181 121.4501(6). Any amounts transferred to the suspense account are
182 payable upon a proper application, not to include earnings
183 thereon, as provided in this section, within 10 years after the
184 last day of the month in which the instrument was originally
185 issued, after which time such amounts and any earnings
186 attributable to employer contributions shall be forfeited. Any
187 forfeited amounts are assets of the trust fund and are not
188 subject to chapter 717.

189 (3) DEATH BENEFITS.—Under the Florida Retirement System
190 Investment Plan:

191 (a) Survivor benefits are payable in accordance with the
192 following terms and conditions, except as provided in subsection
193 (4):

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

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

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

201 (b) Except as provided in subsection (4), in the event of a
202 member's death, all vested accumulations as described in s.
203 121.4501(6), less withholding taxes remitted to the Internal

585-03644-15

20157082__

204 Revenue Service, shall be distributed, as provided in paragraph
205 (c) or as described in s. 121.4501(20), as if the member retired
206 on the date of death. No other death benefits are available for
207 survivors of members, except for benefits, or coverage for
208 benefits, as are otherwise provided by law or separately
209 provided by the employer, at the employer's discretion.

210 (c) Except as provided in subsection (4), upon receipt by
211 the third-party administrator of a properly executed application
212 for distribution of benefits, the total accumulated benefit is
213 payable by the third-party administrator to the member's
214 surviving beneficiary or beneficiaries, as:

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

217 2. An eligible rollover distribution, if permitted, on
218 behalf of the surviving spouse of a deceased member, whereby all
219 accrued benefits, plus interest and investment earnings, are
220 paid from the deceased member's account directly to the
221 custodian of an eligible retirement plan, as described in s.
222 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
223 surviving spouse; or

224 3. A partial lump-sum payment whereby a portion of the
225 accrued benefit is paid to the deceased member's surviving
226 spouse or other designated beneficiaries, less withholding taxes
227 remitted to the Internal Revenue Service, and the remaining
228 amount is transferred directly to the custodian of an eligible
229 retirement plan, if permitted, as described in s. 402(c)(8)(B)
230 of the Internal Revenue Code, on behalf of the surviving spouse.
231 The proportions must be specified by the member or the surviving
232 beneficiary.

585-03644-15

20157082__

233

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

236 (4) DEATH BENEFITS FOR SPECIAL RISK CLASS MEMBERS.—Benefits
237 are provided under this subsection to the spouse and child or
238 children of members in the Special Risk Class when killed in the
239 line of duty and are payable in lieu of the benefits that would
240 otherwise be payable under the provisions of subsection (1) or
241 subsection (3). Benefits provided by this subsection shall
242 supersede any other distribution that may have been provided by
243 the member's designation of beneficiary. Such benefits must be
244 funded from employer contributions made under s. 121.571,
245 transferred employee contributions and funds accumulated
246 pursuant to paragraph (a), and interest and earnings thereon.

247 (a) Transfer of funds.—To qualify to receive monthly
248 benefits under this subsection:

249 1. All moneys accumulated in the member's account,
250 including vested and nonvested accumulations as described in s.
251 121.4501(6), must be transferred from such individual accounts
252 to the division for deposit in the survivor benefit account of
253 the Florida Retirement System Trust Fund. Moneys in the survivor
254 benefit account must be accounted for separately. Earnings must
255 be credited on an annual basis for amounts held in the survivor
256 benefit account of the Florida Retirement System Trust Fund
257 based on actual earnings of the trust fund.

258 2. If the member has retained retirement credit earned
259 under the pension plan as provided in s. 121.4501(3), a sum
260 representing the actuarial present value of such credit within
261 the Florida Retirement System Trust Fund shall be transferred by

585-03644-15

20157082__

262 the division from the pension plan to the survivor benefit
263 retirement program as implemented under this subsection and
264 shall be deposited in the survivor benefit account of the trust
265 fund.

266 (b) Survivor retirement; entitlement.—An investment plan
267 member who is in the Special Risk Class at the time the member
268 is killed in the line of duty on or after July 1, 2013,
269 regardless of length of creditable service, may have survivor
270 benefits paid as provided in s. 121.091(7)(d) and (i) to:

271 1. The surviving spouse for the spouse's lifetime; or
272 2. If there is no surviving spouse or the surviving spouse
273 dies, the member's child or children under 18 years of age and
274 unmarried until the 18th birthday of the member's youngest
275 child. Such payments may be extended until the 25th birthday of
276 the member's child if the child is unmarried and enrolled as a
277 full-time student as provided in s. 121.091(7)(d) and (i).

278 (c) Survivor benefit retirement effective date.—The
279 effective retirement date for the surviving spouse or eligible
280 child of a Special Risk Class member who is killed in the line
281 of duty shall be:

282 1. The first of the month following the member's death if
283 the member dies on or after July 1, 2015.

284 2. July 1, 2015, for a member of the Special Risk Class
285 when killed in the line of duty on or after July 1, 2013, but
286 before July 1, 2015, if the application is received before July
287 1, 2015; or the first of the month following the receipt of the
288 application.

289
290 If the investment plan account balance has already been paid out

585-03644-15

20157082__

291 to the surviving spouse or the eligible unmarried dependent
292 child or children, the benefit payable shall be actuarially
293 reduced by the amount of the payout.

294 (d) *Line-of-duty death benefit.*—The surviving spouse, or if
295 no surviving spouse or the surviving spouse dies, the member's
296 child or children under 18 years of age and unmarried until the
297 18th birthday of the member's youngest child, or until the 25th
298 birthday of the member's child if the child is unmarried and
299 enrolled as a full-time student, is eligible to receive a
300 retirement benefit under s. 121.091(7) (d) and (i) if the
301 member's account balance is surrendered and an application is
302 received and approved. Such surviving spouse or such child or
303 children shall receive a monthly survivor benefit that begins
304 accruing on the first day of the month of survivor benefit
305 retirement, as approved by the division, and is payable on the
306 last day of that month and each month thereafter during the
307 surviving spouse's lifetime or on behalf of the unmarried
308 children until the 18th birthday of the youngest child, or until
309 the 25th birthday of any of the member's children enrolled as
310 full-time students. All survivor benefits must be paid out of
311 the survivor benefit account of the Florida Retirement System
312 Trust Fund established under this subsection.

313
314 If the investment plan account balance has already been paid out
315 to the surviving spouse or the eligible unmarried dependent
316 child or children, the benefit payable shall be actuarially
317 reduced by the amount of the payout.

318 (e) *Computation of survivor benefit retirement benefit.*—The
319 amount of each monthly payment must be calculated as provided

585-03644-15

20157082__

320 under s. 121.091(7)(d) and (i).

321 (f) Death of the surviving spouse or children.-

322 1. Upon the death of a surviving spouse, the monthly
323 benefits shall be paid through the last day of the month of
324 death and shall terminate or be paid on behalf of the unmarried
325 child or children until the 18th birthday of the youngest child,
326 or the 25th birthday of any of the member's unmarried children
327 enrolled as full-time students.

328 2. If the surviving spouse dies and the benefit is being
329 paid on behalf of the unmarried children under 18 years of age
330 until the youngest, unmarried child reaches his or her 18th
331 birthday, or the 25th birthday of any of the member's unmarried
332 children enrolled as full time students, benefits shall be paid
333 through the last day of the month until the later of the month
334 the youngest, unmarried child reaches his or her 18th birthday,
335 the month of the 25th birthday of any of the member's unmarried
336 children enrolled as full-time students, or the month of the
337 death of the youngest child.

338 Section 4. Section 121.5912, Florida Statutes, is created
339 to read:

340 121.5912 Survivor benefit retirement program; qualified
341 status; rulemaking authority.-It is the intent of the
342 Legislature that the survivor benefit retirement program for
343 Special Risk Class members of the Florida Retirement System
344 investment plan meet all applicable requirements for a qualified
345 plan. If the state board or the division receives notification
346 from the Internal Revenue Service that this program or any
347 portion of this program will cause the retirement system, or any
348 portion thereof, to be disqualified for tax purposes under the

585-03644-15

20157082__

349 Internal Revenue Code, the portion that will cause the
350 disqualification does not apply. Upon such notice, the state
351 board or the division shall notify the presiding officers of the
352 Legislature. The state board and the department may adopt any
353 rules necessary to maintain the qualified status of the survivor
354 benefit retirement program.

355 Section 5. Section 121.735, Florida Statutes, is created to
356 read:

357 121.735 Allocations for member line-of-duty death benefits;
358 percentage amounts.—

359 (1) The allocations established in subsection (3) shall be
360 used to provide line-of-duty death benefit coverage for Special
361 Risk Class members in the investment plan and shall be
362 transferred monthly by the Division of Retirement from the
363 Florida Retirement System Contributions Clearing Trust Fund to
364 the survivor benefit account of the Florida Retirement System
365 Trust Fund.

366 (2) The allocations are stated as a percentage of each
367 investment plan member's gross compensation for the calendar
368 month. A change in a contribution percentage is effective the
369 first day of the month for which retirement contributions may be
370 made on or after the beginning date of the change. Contribution
371 percentages may be modified by general law.

372 (3) Effective July 1, 2015, allocations from the Florida
373 Retirement System Contributions Clearing Trust Fund to provide
374 line-of-duty death benefits for Special Risk Class members in
375 the investment plan, and to offset the costs of administering
376 said coverage, are as follows:

377

585-03644-15

20157082__

378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402

<u>Membership Class</u>	<u>Percentage of Gross Compensation</u>
-------------------------	---

<u>Special Risk Class</u>	<u>0.82%</u>
---------------------------	--------------

Section 6. Section 121.75, Florida Statutes, is amended to read:

121.75 Allocation for pension plan.—After making the transfers required pursuant to ss. 121.71, 121.72, 121.73, 121.735, and 121.74, the monthly balance of funds in the Florida Retirement System Contributions Clearing Trust Fund shall be transferred to the Florida Retirement System Trust Fund to pay the costs of providing pension plan benefits and plan administrative costs under the pension plan.

Section 7. (1) In order to fund the benefit changes provided in this act, the required employer contribution rates for members of the Florida Retirement System established in s. 121.71(4), Florida Statutes, must be adjusted as follows:

(a) The Special Risk Class must be increased by 0.45 percentage point; and

(b) The Deferred Retirement Option Program must be increased by 0.06 percentage point.

(2) In order to fund the benefit changes provided in this act, the required employer contribution rate for the unfunded

585-03644-15

20157082__

403 actuarial liability of the Florida Retirement System established
404 in s. 121.71(5), Florida Statutes, for the Special Risk Class is
405 increased by 0.13 percentage point.

406 (3) The adjustments provided in subsections (1) and (2)
407 shall be in addition to all other changes to such contribution
408 rates which may be enacted into law to take effect on July 1,
409 2015. The Division of Law Revision and Information is directed
410 to adjust accordingly the contribution rates provided in s.
411 121.71, Florida Statutes.

412 Section 8. The Legislature finds that a proper and
413 legitimate state purpose is served when employees and retirees
414 of the state and of its political subdivisions, and the
415 dependents, survivors, and beneficiaries of such employees and
416 retirees, are extended the basic protections afforded by
417 governmental retirement systems that provide fair and adequate
418 benefits that are managed, administered, and funded in an
419 actuarially sound manner, as required by s. 14, Article X of the
420 State Constitution and part VII of chapter 112, Florida
421 Statutes. Therefore, the Legislature determines and declares
422 that this act fulfills an important state interest.

423 Section 9. This act shall take effect July 1, 2015.