

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

585-03395A-15

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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 surviving children of a Special Risk Class
6 member 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

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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

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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

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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 until the 18th birthday of the
106 member's youngest, unmarried child. Such monthly payments may be
107 extended beyond this period until the 25th birthday of the
108 member's child if the child is unmarried and enrolled as a full-
109 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 until the 18th birthday of the member's
115 youngest, unmarried child. Such monthly payments may be extended
116 beyond this period until the 25th birthday of the member's child

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117 if the child is unmarried and enrolled as a full-time student.

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

120 121.571 Contributions.—Contributions to the Florida
121 Retirement System Investment Plan shall be made as follows:

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

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

133 121.591 Payment of benefits.—Benefits may not be paid under
134 the Florida Retirement System Investment Plan unless the member
135 has terminated employment as provided in s. 121.021(39)(a) or is
136 deceased and a proper application has been filed as prescribed
137 by the state board or the department. Benefits, including
138 employee contributions, are not payable under the investment
139 plan for employee hardships, unforeseeable emergencies, loans,
140 medical expenses, educational expenses, purchase of a principal
141 residence, payments necessary to prevent eviction or foreclosure
142 on an employee's principal residence, or any other reason except
143 a requested distribution for retirement, a mandatory de minimis
144 distribution authorized by the administrator, or a required
145 minimum distribution provided pursuant to the Internal Revenue

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146 Code. The state board or department, as appropriate, may cancel
147 an application for retirement benefits if the member or
148 beneficiary fails to timely provide the information and
149 documents required by this chapter and the rules of the state
150 board and department. In accordance with their respective
151 responsibilities, the state board and the department shall adopt
152 rules establishing procedures for application for retirement
153 benefits and for the cancellation of such application if the
154 required information or documents are not received. The state
155 board and the department, as appropriate, are authorized to cash
156 out a de minimis account of a member who has been terminated
157 from Florida Retirement System covered employment for a minimum
158 of 6 calendar months. A de minimis account is an account
159 containing employer and employee contributions and accumulated
160 earnings of not more than \$5,000 made under the provisions of
161 this chapter. Such cash-out must be a complete lump-sum
162 liquidation of the account balance, subject to the provisions of
163 the Internal Revenue Code, or a lump-sum direct rollover
164 distribution paid directly to the custodian of an eligible
165 retirement plan, as defined by the Internal Revenue Code, on
166 behalf of the member. Any nonvested accumulations and associated
167 service credit, including amounts transferred to the suspense
168 account of the Florida Retirement System Investment Plan Trust
169 Fund authorized under s. 121.4501(6), shall be forfeited upon
170 payment of any vested benefit to a member or beneficiary, except
171 for de minimis distributions or minimum required distributions
172 as provided under this section. If any financial instrument
173 issued for the payment of retirement benefits under this section
174 is not presented for payment within 180 days after the last day

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

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

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

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

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

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

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

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

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

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

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

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

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

235 (4) DEATH BENEFITS FOR SPECIAL RISK CLASS MEMBERS.—Benefits
236 are provided under this subsection to the spouse and children of
237 members in the Special Risk Class when killed in the line of
238 duty and are payable in lieu of the benefits that would
239 otherwise be payable under the provisions of subsections (1) or
240 (3). Such benefits must be funded from employer contributions
241 made under s. 121.571, transferred employee contributions and
242 funds accumulated pursuant to paragraph (a), and interest and
243 earnings thereon.

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

246 1. All moneys accumulated in the member's account,
247 including vested and nonvested accumulations as described in s.
248 121.4501(6), must be transferred from such individual accounts
249 to the division for deposit in the survivor benefit account of
250 the Florida Retirement System Trust Fund. Moneys in the survivor
251 benefit account must be accounted for separately. Earnings must
252 be credited on an annual basis for amounts held in the survivor
253 benefit account of the Florida Retirement System Trust Fund
254 based on actual earnings of the trust fund.

255 2. If the member has retained retirement credit earned
256 under the pension plan as provided in s. 121.4501(3), a sum
257 representing the actuarial present value of such credit within
258 the Florida Retirement System Trust Fund shall be reassigned by
259 the division from the pension plan to the survivor benefit
260 retirement program as implemented under this subsection and
261 shall be deposited in the survivor benefit account of the trust

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262 fund.

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

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

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

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

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

286
287 If the investment plan account balance has already been paid out
288 to the surviving spouse or the eligible unmarried dependent
289 child or children, the benefit payable shall be actuarially
290 reduced by the amount of the payout.

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

310
311 If the investment plan account balance has already been paid out
312 to the surviving spouse or the eligible unmarried dependent
313 child or children, the benefit payable shall be actuarially
314 reduced by the amount of the payout.

315 (e) Computation of survivor benefit retirement benefit.—The
316 amount of each monthly payment must be calculated as provided
317 under s. 121.091(7) (d) and (i).

318 (f) Death of the surviving spouse or children.—

319 1. Upon the death of a surviving spouse, the monthly

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320 benefits shall be paid through the last day of the month of
321 death and shall terminate or be paid on behalf of the unmarried
322 child or children until the 18th birthday of the youngest child,
323 or the 25th birthday of any of the member's unmarried children
324 enrolled as a full-time student.

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

335 Section 4. Section 121.5912, Florida Statutes, is created
336 to read:

337 121.5912 Survivor benefit retirement program; qualified
338 status; rulemaking authority.—It is the intent of the
339 Legislature that the survivor benefit retirement program for
340 Special Risk Class members of the Florida Retirement System
341 investment plan meet all applicable requirements for a qualified
342 plan. If the state board or the division receives notification
343 from the Internal Revenue Service that this program or any
344 portion of this program will cause the retirement system, or any
345 portion thereof, to be disqualified for tax purposes under the
346 Internal Revenue Code, the portion that will cause the
347 disqualification does not apply. Upon such notice, the state
348 board or the division shall notify the presiding officers of the

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349 Legislature. The state board and the department may adopt any
 350 rules necessary to maintain the qualified status of the survivor
 351 benefit retirement program.

352 Section 5. Section 121.735, Florida Statutes, is created to
 353 read:

354 121.735 Allocations for member line-of-duty death benefits;
 355 percentage amounts.-

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

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

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

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 375

<u>Membership Class</u>	<u>Percentage of Gross</u> <u>Compensation</u>
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403 (3) The adjustments provided in subsections (1) and (2)
404 shall be in addition to all other changes to such contribution
405 rates which may be enacted into law to take effect on July 1,
406 2015. The Division of Law Revision and Information is directed
407 to adjust accordingly the contribution rates provided in s.
408 121.71, Florida Statutes.

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

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