

By the Committee on Governmental Oversight and Accountability

585-00727-16

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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 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 ss. 121.71,  
25      121.74, and 121.75, F.S.; conforming cross-references  
26      to changes made by the act; requiring the State Board  
27      of Administration to transfer moneys to fund survivor  
28      benefit payments under specified circumstances;  
29      adjusting employer contribution rates in order to fund

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30 changes made by the act; providing a directive to the  
31 Division of Law Revision and Information; declaring  
32 that the act fulfills an important state interest;  
33 providing an appropriation; providing an effective  
34 date.

35

36 Be It Enacted by the Legislature of the State of Florida:

37

38 Section 1. Paragraph (d) of subsection (7) of section  
39 121.091, Florida Statutes, is amended, and paragraph (i) is  
40 added to that subsection, to read:

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

54 (7) DEATH BENEFITS.—

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

58 1. The surviving spouse of any member killed in the line of

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59 duty may receive a monthly pension equal to one-half of the  
60 monthly salary being received by the member at the time of death  
61 for the rest of the surviving spouse's lifetime or, if the  
62 member was vested, such surviving spouse may elect to receive a  
63 benefit as provided in paragraph (b). Benefits provided by this  
64 paragraph shall supersede any other distribution that may have  
65 been provided by the member's designation of beneficiary.

66 2. If the surviving spouse of a member killed in the line  
67 of duty dies, the monthly payments that ~~which~~ would have been  
68 payable to such surviving spouse had such surviving spouse lived  
69 shall be paid for the use and benefit of such member's child or  
70 children under 18 years of age and unmarried until the 18th  
71 birthday of the member's youngest child. Beginning July 1, 2016,  
72 such payments may be extended, for the surviving child of a  
73 member in the Special Risk Class at the time he or she was  
74 killed in the line of duty on or after July 1, 2013, until the  
75 25th birthday of any child of the member if the child is  
76 unmarried and enrolled as a full-time student.

77 3. If a member killed in the line of duty leaves no  
78 surviving spouse but is survived by a child or children under 18  
79 years of age, the benefits provided by subparagraph 1., normally  
80 payable to a surviving spouse, shall be paid for the use and  
81 benefit of such member's child or children under 18 years of age  
82 and unmarried until the 18th birthday of the member's youngest  
83 child. Beginning July 1, 2016, such monthly payments may be  
84 extended, for the surviving child of a member in the Special  
85 Risk Class at the time he or she was killed in the line of duty  
86 on or after July 1, 2013, until the 25th birthday of any child  
87 of the member if the child is unmarried and enrolled as a full-

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88 time student.

89 4. The surviving spouse of a member whose benefit  
90 terminated because of remarriage shall have the benefit  
91 reinstated beginning July 1, 1993, at an amount that would have  
92 been payable had the benefit not been terminated.

93 (i) Effective July 1, 2016, and notwithstanding any  
94 provision in this chapter to the contrary, if a member in the  
95 Special Risk Class, other than a participant in the Deferred  
96 Retirement Option Program under subsection (13), is killed in  
97 the line of duty on or after July 1, 2013, the following  
98 benefits are payable in addition to the benefits provided in  
99 paragraph (d):

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

108 2. If the surviving spouse dies, the monthly payments that  
109 otherwise would have been payable to such surviving spouse shall  
110 be paid for the use and benefit of the member's child or  
111 children under 18 years of age and unmarried until the 18th  
112 birthday of the member's youngest child. Such monthly payments  
113 may be extended until the 25th birthday of the member's child if  
114 the child is unmarried and enrolled as a full-time student.

115 3. If the member leaves no surviving spouse but is survived  
116 by a child or children under 18 years of age, the benefits

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117 provided by subparagraph 1., normally payable to a surviving  
118 spouse, shall be paid for the use and benefit of such member's  
119 child or children under 18 years of age and unmarried until the  
120 18th birthday of the member's youngest child. Such monthly  
121 payments may be extended until the 25th birthday of any of the  
122 member's children if the child is unmarried and enrolled as a  
123 full-time student.

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

126 121.571 Contributions.—Contributions to the Florida  
127 Retirement System Investment Plan shall be made as follows:

128 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund the  
129 retirement, ~~and~~ disability, and line-of-duty death benefits  
130 provided under this part must be based on the uniform  
131 contribution rates established by s. 121.71 and on the  
132 membership class or subclass of the member. Such contributions  
133 must be allocated as provided in ss. 121.72, ~~and~~ 121.73, and  
134 121.735.

135 Section 3. Subsection (3) of section 121.591, Florida  
136 Statutes, is amended, present subsection (4) of that section is  
137 redesignated as subsection (5), and a new subsection (4) is  
138 added to that section, to read:

139 121.591 Payment of benefits.—Benefits may not be paid under  
140 the Florida Retirement System Investment Plan unless the member  
141 has terminated employment as provided in s. 121.021(39)(a) or is  
142 deceased and a proper application has been filed as prescribed  
143 by the state board or the department. Benefits, including  
144 employee contributions, are not payable under the investment  
145 plan for employee hardships, unforeseeable emergencies, loans,

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

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

194 (3) DEATH BENEFITS.—Under the Florida Retirement System  
195 Investment Plan:

196 (a) Survivor benefits are payable in accordance with the  
197 following terms and conditions, except as provided in subsection  
198 (4):

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

202 2. Benefits shall be paid by the third-party administrator  
203 or designated approved providers in accordance with the law, the

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204 contracts, and any applicable state board rule or policy.

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

206 (b) Except as provided in subsection (4), in the event of a  
207 member's death, all vested accumulations as described in s.  
208 121.4501(6), less withholding taxes remitted to the Internal  
209 Revenue Service, shall be distributed, as provided in paragraph  
210 (c) or as described in s. 121.4501(20), as if the member retired  
211 on the date of death. No other death benefits are available for  
212 survivors of members, except for benefits, or coverage for  
213 benefits, as are otherwise provided by law or separately  
214 provided by the employer, at the employer's discretion.

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

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

222 2. An eligible rollover distribution, if permitted, on  
223 behalf of the surviving spouse of a deceased member, whereby all  
224 accrued benefits, plus interest and investment earnings, are  
225 paid from the deceased member's account directly to the  
226 custodian of an eligible retirement plan, as described in s.  
227 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
228 surviving spouse; or

229 3. A partial lump-sum payment whereby a portion of the  
230 accrued benefit is paid to the deceased member's surviving  
231 spouse or other designated beneficiaries, less withholding taxes  
232 remitted to the Internal Revenue Service, and the remaining



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233 amount is transferred directly to the custodian of an eligible  
234 retirement plan, if permitted, as described in s. 402(c)(8)(B)  
235 of the Internal Revenue Code, on behalf of the surviving spouse.  
236 The proportions must be specified by the member or the surviving  
237 beneficiary.

238  
239 This paragraph does not abrogate other applicable provisions of  
240 state or federal law providing for payment of death benefits.

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

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

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

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262 based on actual earnings of the trust fund.

263 2. If the member has retained retirement credit earned  
264 under the pension plan as provided in s. 121.4501(3), a sum  
265 representing the actuarial present value of such credit within  
266 the Florida Retirement System Trust Fund shall be transferred by  
267 the division from the pension plan to the survivor benefit  
268 retirement program as implemented under this subsection and  
269 shall be deposited in the survivor benefit account of the trust  
270 fund.

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

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

283 (c) Survivor benefit retirement effective date.—The  
284 effective retirement date for the surviving spouse or eligible  
285 child of a Special Risk Class member who is killed in the line  
286 of duty is:

287 1. The first day of the month following the member's death  
288 if the member dies on or after July 1, 2016.

289 2. July 1, 2016, for a member of the Special Risk Class  
290 when killed in the line of duty on or after July 1, 2013, but

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291 before July 1, 2016, if the application is received before July  
292 1, 2016; or the first day of the month following the receipt of  
293 such application.

294  
295 If the investment plan account balance has already been paid out  
296 to the surviving spouse or the eligible unmarried dependent  
297 child or children, the benefit payable shall be actuarially  
298 reduced by the amount of the payout.

299 (d) Line-of-duty death benefit.-

300 1. The following individuals are eligible to receive a  
301 retirement benefit under s. 121.091(7)(d) and (i) if the  
302 member's account balance is surrendered and an application is  
303 received and approved:

304 a. The surviving spouse.

305 b. If there is no surviving spouse or the surviving spouse  
306 dies, the member's child or children under 18 years of age and  
307 unmarried until the 18th birthday of the member's youngest  
308 child, or until the 25th birthday of the member's child if the  
309 child is unmarried and enrolled as a full-time student.

310 2. Such surviving spouse or such child or children shall  
311 receive a monthly survivor benefit that begins accruing on the  
312 first day of the month of survivor benefit retirement, as  
313 approved by the division, and is payable on the last day of that  
314 month and each month thereafter during the surviving spouse's  
315 lifetime or on behalf of the unmarried children of the member  
316 until the 18th birthday of the youngest child, or until the 25th  
317 birthday of any of the member's unmarried children who are  
318 enrolled as full-time students. Survivor benefits must be paid  
319 out of the survivor benefit account of the Florida Retirement

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320 System Trust Fund established under this subsection.

321  
322 If the investment plan account balance has already been paid out  
323 to the surviving spouse or the eligible unmarried dependent  
324 child or children, the benefit payable shall be actuarially  
325 reduced by the amount of the payout.

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

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

330 1. Upon the death of a surviving spouse, the monthly  
331 benefits shall be paid through the last day of the month of  
332 death and shall terminate or be paid on behalf of the unmarried  
333 child or children until the 18th birthday of the youngest child,  
334 or the 25th birthday of any of the member's unmarried children  
335 who are enrolled as full-time students.

336 2. If the surviving spouse dies and the benefits are being  
337 paid on behalf of the member's unmarried children as provided in  
338 subparagraph 1., benefits shall be paid through the last day of  
339 the month until the later of the month the youngest child  
340 reaches his or her 18th birthday, the month of the 25th birthday  
341 of any of the member's unmarried children enrolled as full-time  
342 students, or the month of the death of the youngest child.

343 Section 4. Section 121.5912, Florida Statutes, is created  
344 to read:

345 121.5912 Survivor benefit retirement program; qualified  
346 status; rulemaking authority.—It is the intent of the  
347 Legislature that the survivor benefit retirement program for  
348 Special Risk Class members of the Florida Retirement System

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349 investment plan meet all applicable requirements for a qualified  
350 plan. If the state board or the division receives notification  
351 from the Internal Revenue Service that this program or any  
352 portion of this program will cause the retirement system, or any  
353 portion thereof, to be disqualified for tax purposes under the  
354 Internal Revenue Code, the portion that will cause the  
355 disqualification does not apply. Upon such notice, the state  
356 board or the division shall notify the presiding officers of the  
357 Legislature. The state board and the department may adopt any  
358 rules necessary to maintain the qualified status of the survivor  
359 benefit retirement program.

360 Section 5. Section 121.735, Florida Statutes, is created to  
361 read:

362 121.735 Allocations for member line-of-duty death benefits;  
363 percentage amounts.-

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

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

376 (3) Effective July 1, 2016, allocations from the Florida  
377 Retirement System Contributions Clearing Trust Fund to provide

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378 line-of-duty death benefits for Special Risk Class members in  
 379 the investment plan and to offset the costs of administering  
 380 said coverage, are as follows:

381  
 382

<u>Membership Class</u>	<u>Percentage of Gross</u> <u>Compensation</u>
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383

384

<u>Special Risk Class</u>	<u>0.82%</u>
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387 Section 6. Subsection (1) of section 121.71, Florida  
 388 Statutes, is amended to read:

389 121.71 Uniform rates; process; calculations; levy.—

390 (1) In conducting the system actuarial study required under  
 391 s. 121.031, the actuary shall follow all requirements specified  
 392 to determine, by Florida Retirement System employee membership  
 393 class, the dollar contribution amounts necessary for the next  
 394 fiscal year for the pension plan. In addition, the actuary shall  
 395 determine, by Florida Retirement System membership class, based  
 396 on an estimate for the next fiscal year of the gross  
 397 compensation of employees participating in the investment plan,  
 398 the dollar contribution amounts necessary to make the  
 399 allocations required under ss. 121.72, ~~and~~ 121.73, and 121.735.  
 400 For each employee membership class and subclass, the actuarial  
 401 study must establish a uniform rate necessary to fund the  
 402 benefit obligations under both Florida Retirement System

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403 retirement plans by dividing the sum of total dollars required  
404 by the estimated gross compensation of members in both plans.

405 Section 7. Section 121.74, Florida Statutes, is amended to  
406 read:

407 121.74 Administrative and educational expenses.—In addition  
408 to contributions required to fund member accounts under s.  
409 121.71 ~~ss. 121.71 and 121.73~~, effective July 1, 2010, through  
410 June 30, 2014, employers participating in the Florida Retirement  
411 System shall contribute an employer assessment amount equal to  
412 0.03 percent of the payroll reported for each class or subclass  
413 of Florida Retirement System membership. Effective July 1, 2014,  
414 the employer assessment is 0.04 percent of the payroll reported  
415 for each class or subclass of membership. The amount assessed  
416 shall be transferred by the division ~~of Retirement~~ from the  
417 Florida Retirement System Contributions Clearing Trust Fund to  
418 the State Board of Administration's Administrative Trust Fund to  
419 offset the costs of administering the investment plan and the  
420 costs of providing educational services to members of the  
421 Florida Retirement System. Approval of the trustees is required  
422 before the expenditure of these funds. Payments for third-party  
423 administrative or educational expenses shall be made only  
424 pursuant to the terms of the approved contracts for such  
425 services.

426 Section 8. Section 121.75, Florida Statutes, is amended to  
427 read:

428 121.75 Allocation for pension plan.—After making the  
429 transfers required pursuant to ss. 121.71, 121.72, 121.73,  
430 121.735, and 121.74, the monthly balance of funds in the Florida  
431 Retirement System Contributions Clearing Trust Fund shall be

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432 transferred to the Florida Retirement System Trust Fund to pay  
433 the costs of providing pension plan benefits and plan  
434 administrative costs under the pension plan.

435 Section 9. For the 2016-2017 fiscal year only, upon  
436 notification by the Department of Management Services that  
437 sufficient funds are not available to make survivor benefit  
438 payments authorized by this act, the State Board of  
439 Administration shall transfer, to the extent necessary, moneys  
440 in the Administrative Trust Fund to the survivor benefits  
441 account in the Florida Retirement System Trust Fund to ensure  
442 the timely payment of survivor benefits.

443 Section 10. (1) In order to fund the benefit changes  
444 provided in this act, the required employer contribution rates  
445 for members of the Florida Retirement System established in s.  
446 121.71(4), Florida Statutes, are adjusted as follows:

447 (a) The Special Risk Class is increased by 0.45 percentage  
448 point; and

449 (b) The Deferred Retirement Option Program is increased by  
450 0.06 percentage point.

451 (2) In order to fund the benefit changes provided in this  
452 act, the required employer contribution rate for the unfunded  
453 actuarial liability of the Florida Retirement System established  
454 in s. 121.71(5), Florida Statutes, for the Special Risk Class is  
455 increased by 0.13 percentage point.

456 (3) The adjustments provided in subsections (1) and (2) are  
457 in addition to any other changes to such contribution rates  
458 which may be enacted into law to take effect on July 1, 2016.  
459 The Division of Law Revision and Information is directed to  
460 adjust accordingly the contribution rates provided in s. 121.71,



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461 Florida Statutes.

462       Section 11. The Legislature finds that a proper and  
463 legitimate state purpose is served when employees and retirees  
464 of the state and of its political subdivisions, and the  
465 dependents, survivors, and beneficiaries of such employees and  
466 retirees, are extended the basic protections afforded by  
467 governmental retirement systems that provide fair and adequate  
468 benefits that are managed, administered, and funded in an  
469 actuarially sound manner, as required by s. 14, Article X of the  
470 State Constitution and part VII of chapter 112, Florida  
471 Statutes. Therefore, the Legislature determines and declares  
472 that this act fulfills an important state interest.

473       Section 12. For the 2016-2017 fiscal year, the recurring  
474 sums of \$5,445,537 from the General Revenue Fund and \$1,062,991  
475 from trust funds are appropriated to Administered Funds in order  
476 to fund the increased employer contribution rates to be paid  
477 under this act by state agencies, state universities, state  
478 colleges, and school districts.

479       Section 13. This act shall take effect July 1, 2016.