

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 for
 5 certain governing bodies initially enrolled on or
 6 after a specified date; amending s. 121.091, F.S.;
 7 requiring certain benefits be paid to a beneficiary
 8 who does not qualify as a joint annuitant; amending s.
 9 121.4501, F.S.; authorizing eligible employees one
 10 opportunity to transfer from investment plan to
 11 pension plan within a specified time; amending s.
 12 121.71, F.S.; authorizing members to contribute
 13 amounts in addition to the required member rate to the
 14 Florida Retirement System for a specified purpose;
 15 providing a declaration of important state interest;
 16 providing an effective date.

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

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 20 Section 1. Paragraph (b) of subsection (2) of section
 21 121.051, Florida Statutes, is amended to read:

22 121.051 Participation in the system.—

23 (2) OPTIONAL PARTICIPATION.—

24 (b)1. Before July 1, 2021, the governing body of any
 25 municipality, metropolitan planning organization, or special

26 | district in the state may elect to participate in the Florida
27 | Retirement System upon proper application to the administrator
28 | and may cover all of its units as approved by the Secretary of
29 | Health and Human Services and the administrator. The department
30 | shall adopt rules establishing procedures for the submission of
31 | documents necessary for such application. Before being approved
32 | for participation in the system, the governing body of a
33 | municipality, metropolitan planning organization, or special
34 | district that has a local retirement system must submit to the
35 | administrator a certified financial statement showing the
36 | condition of the local retirement system within 3 months before
37 | the proposed effective date of membership in the Florida
38 | Retirement System. The statement must be certified by a
39 | recognized accounting firm that is independent of the local
40 | retirement system. All required documents necessary for
41 | extending Florida Retirement System coverage must be received by
42 | the department for consideration at least 15 days before the
43 | proposed effective date of coverage. If the municipality,
44 | metropolitan planning organization, or special district does not
45 | comply with this requirement, the department may require that
46 | the effective date of coverage be changed.

47 | a.2- A municipality, metropolitan planning organization,
48 | or special district that has an existing retirement system
49 | covering the employees in the units that are to be brought under
50 | the Florida Retirement System may participate only after holding

51 a referendum in which all employees in the affected units have
52 the right to participate. Only those employees electing coverage
53 under the Florida Retirement System by affirmative vote in the
54 referendum are eligible for coverage under this chapter, and
55 those not participating or electing not to be covered by the
56 Florida Retirement System shall remain in their present systems
57 and are not eligible for coverage under this chapter. After the
58 referendum is held, all future employees are compulsory members
59 of the Florida Retirement System.

60 ~~b.3.~~ At the time of joining the Florida Retirement System,
61 the governing body of a municipality, metropolitan planning
62 organization, or special district complying with subparagraph 1.
63 may elect to provide, or not provide, benefits based on past
64 service of officers and employees as described in s. 121.081(1).
65 However, if such employer elects to provide past service
66 benefits, such benefits must be provided for all officers and
67 employees of its covered group.

68 ~~c.4.~~ Once this election is made and approved it may not be
69 revoked, except under sub-subparagraphs d. and e. ~~pursuant to~~
70 ~~subparagraphs 5. and 6.,~~ and all present officers and employees
71 electing coverage and all future officers and employees are
72 compulsory members of the Florida Retirement System.

73 ~~d.5.~~ Subject to sub-subparagraph e. ~~subparagraph 6.,~~ the
74 governing body of a hospital licensed under chapter 395 which is
75 governed by the governing body of a special district as defined

76 | in s. 189.012 or by the board of trustees of a public health
77 | trust created under s. 154.07, hereinafter referred to as
78 | "hospital district," and which participates in the Florida
79 | Retirement System, may elect to cease participation in the
80 | system with regard to future employees in accordance with the
81 | following:

82 | (I)~~a.~~ No more than 30 days and at least 7 days before
83 | adopting a resolution to partially withdraw from the system and
84 | establish an alternative retirement plan for future employees, a
85 | public hearing must be held on the proposed withdrawal and
86 | proposed alternative plan.

87 | (II)~~b.~~ From 7 to 15 days before such hearing, notice of
88 | intent to withdraw, specifying the time and place of the
89 | hearing, must be provided in writing to employees of the
90 | hospital district proposing partial withdrawal and must be
91 | published in a newspaper of general circulation in the area
92 | affected, as provided by ss. 50.011-50.031. Proof of publication
93 | must be submitted to the Department of Management Services.

94 | (III)~~c.~~ The governing body of a hospital district seeking
95 | to partially withdraw from the system must, before such hearing,
96 | have an actuarial report prepared and certified by an enrolled
97 | actuary, as defined in s. 112.625, illustrating the cost to the
98 | hospital district of providing, through the retirement plan that
99 | the hospital district is to adopt, benefits for new employees
100 | comparable to those provided under the system.

101 (IV)~~d.~~ Upon meeting all applicable requirements of this
102 subparagraph, and subject to sub-subparagraph e. ~~subparagraph~~
103 ~~6.~~, partial withdrawal from the system and adoption of the
104 alternative retirement plan may be accomplished by resolution
105 duly adopted by the hospital district board. The hospital
106 district board must provide written notice of such withdrawal to
107 the division by mailing a copy of the resolution to the
108 division, postmarked by December 15, 1995. The withdrawal shall
109 take effect January 1, 1996.

110 e.~~6.~~ Following the adoption of a resolution under sub-sub-
111 subparagraph d. (IV) ~~sub-subparagraph 5.d.~~, all employees of the
112 withdrawing hospital district who were members of the system
113 before January 1, 1996, shall remain as members of the system
114 for as long as they are employees of the hospital district, and
115 all rights, duties, and obligations between the hospital
116 district, the system, and the employees remain in full force and
117 effect. Any employee who is hired or appointed on or after
118 January 1, 1996, may not participate in the system, and the
119 withdrawing hospital district has no obligation to the system
120 with respect to such employees.

121 2.a. On or after July 1, 2021, the governing body of any
122 newly created municipality, metropolitan planning organization,
123 or special district in the state must participate in the Florida
124 Retirement System.

125 b. At the time of joining the Florida Retirement System,

126 the governing body of a municipality, metropolitan planning
127 organization, or special district may elect to provide, or not
128 provide, benefits based on past service of officers and
129 employees as described in s. 121.081(1). However, if such
130 employer elects to provide past service benefits, such benefits
131 must be provided for all officers and employees of its covered
132 group.

133 Section 2. Paragraph (b) of subsection (7) of section
134 121.091, Florida Statutes, is amended, and paragraph (g) is
135 added to subsection (9) of that section, to read:

136 121.091 Benefits payable under the system.—Benefits may
137 not be paid under this section unless the member has terminated
138 employment as provided in s. 121.021(39) (a) or begun
139 participation in the Deferred Retirement Option Program as
140 provided in subsection (13), and a proper application has been
141 filed in the manner prescribed by the department. The department
142 may cancel an application for retirement benefits when the
143 member or beneficiary fails to timely provide the information
144 and documents required by this chapter and the department's
145 rules. The department shall adopt rules establishing procedures
146 for application for retirement benefits and for the cancellation
147 of such application when the required information or documents
148 are not received.

149 (7) DEATH BENEFITS.—

150 (b) If the employment of an active member who may or may

151 not have applied for retirement is terminated by reason of his
152 or her death subsequent to becoming vested and before ~~prior to~~
153 his or her effective date of retirement, if established, it is
154 ~~shall be~~ assumed that the member retired as of the date of death
155 in accordance with subsection (1) if eligible for normal
156 retirement benefits, subsection (2) if eligible for benefits
157 payable for dual normal retirement, or subsection (3) if
158 eligible for early retirement benefits. Benefits payable to the
159 designated beneficiary shall be as follows:

160 1. For a beneficiary who qualifies as a joint annuitant,
161 the optional form of payment provided in accordance with
162 subparagraph (6)(a)3. shall be paid for the joint annuitant's
163 lifetime.

164 2. For a beneficiary who does not qualify as a joint
165 annuitant, any benefits payable shall be paid as provided in the
166 option selected by the member; or if the member has not selected
167 an option, benefits shall be paid in the optional form of
168 payment provided in subparagraph (6)(a)1 ~~no continuing monthly~~
169 ~~benefit shall be paid and the beneficiary shall be entitled only~~
170 ~~to the return of the member's personal contributions.~~ If there
171 is no monetary interest in the member's retirement account for
172 which such beneficiary is eligible, the beneficiary shall be the
173 next named beneficiary or, if no other beneficiary is named, the
174 beneficiary shall be the next eligible beneficiary according to
175 subsection (8).

176 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—
 177 (g) Any person whose retirement is effective on or after
 178 July 1, 2021, or whose participation in the Deferred Retirement
 179 Option Program terminates on or after July 1, 2021, who is
 180 retired under this chapter, except under the disability
 181 retirement provisions of subsection (4) or as provided in s.
 182 121.053, may hold an elective public office that is covered by
 183 the Florida Retirement System. Such person shall receive his or
 184 her retirement benefits in addition to the compensation of the
 185 elective office without regards to the time limitations
 186 otherwise provided in this subsection.

187 Section 3. Paragraph (f) of subsection (4) of section
 188 121.4501, Florida Statutes, is amended to read:

189 121.4501 Florida Retirement System Investment Plan.—

190 (4) PARTICIPATION; ENROLLMENT.—

191 (f) After the period during which an eligible employee had
 192 the choice to elect the pension plan or the investment plan, or
 193 the month following the receipt of the eligible employee's plan
 194 election, if sooner, the employee shall have one opportunity, at
 195 the employee's discretion, to choose to move from the pension
 196 plan to the investment plan or from the investment plan to the
 197 pension plan. Beginning July 1, 2021, a 90-day election period
 198 is provided to permit each eligible employee who elected between
 199 June 1, 2002, and June 30, 2011, to move from the pension plan
 200 to the investment plan one opportunity to elect, at the

201 employee's discretion, to move from the investment plan back to
202 the pension plan. Eligible employees may elect to move between
203 plans only if they are earning service credit in an employer-
204 employee relationship consistent with s. 121.021(17)(b),
205 excluding leaves of absence without pay. Effective July 1, 2005,
206 such elections are effective on the first day of the month
207 following the receipt of the election by the third-party
208 administrator and are not subject to the requirements regarding
209 an employer-employee relationship or receipt of contributions
210 for the eligible employee in the effective month, except when
211 the election is received by the third-party administrator. This
212 paragraph is contingent upon approval by the Internal Revenue
213 Service.

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

216 2. If the employee chooses to move to the pension plan,
217 the employee must transfer from his or her investment plan
218 account, and from other employee moneys as necessary, a sum
219 representing the present value of that employee's accumulated
220 benefit obligation immediately following the time of such
221 movement, determined assuming that attained service equals the
222 sum of service in the pension plan and service in the investment
223 plan. Benefit commencement occurs on the first date the employee
224 is eligible for unreduced benefits, using the discount rate and
225 other relevant actuarial assumptions that were used to value the

226 pension plan liabilities in the most recent actuarial valuation.
227 For any employee who, at the time of the second election,
228 already maintains an accrued benefit amount in the pension plan,
229 the then-present value of the accrued benefit is deemed part of
230 the required transfer amount. The division must ensure that the
231 transfer sum is prepared using a formula and methodology
232 certified by an enrolled actuary. A refund of any employee
233 contributions or additional member payments made which exceed
234 the employee contributions that would have accrued had the
235 member remained in the pension plan and not transferred to the
236 investment plan is not permitted.

237 3. Notwithstanding subparagraph 2., an employee who
238 chooses to move to the pension plan and who became eligible to
239 participate in the investment plan by reason of employment in a
240 regularly established position with a state employer after June
241 1, 2002; a district school board employer after September 1,
242 2002; or a local employer after December 1, 2002, must transfer
243 from his or her investment plan account, and from other employee
244 moneys as necessary, a sum representing the employee's actuarial
245 accrued liability. A refund of any employee contributions or
246 additional member payments made which exceed the employee
247 contributions that would have accrued had the member remained in
248 the pension plan and not transferred to the investment plan is
249 not permitted.

250 4. An employee's ability to transfer from the pension plan

251 to the investment plan under ~~pursuant to~~ paragraphs (a) and (b),
252 and the ability of a current employee to have an option to later
253 transfer back into the pension plan under subparagraph 2., is
254 considered ~~shall be deemed~~ a significant system amendment. Under
255 ~~Pursuant to~~ s. 121.031(4), any resulting unfunded liability
256 arising from actual original transfers from the pension plan to
257 the investment plan must be amortized within 30 plan years as a
258 separate unfunded actuarial base independent of the reserve
259 stabilization mechanism defined in s. 121.031(3)(f). For the
260 first 25 years, a direct amortization payment may not be
261 calculated for this base. During this 25-year period, the
262 separate base shall be used to offset the impact of employees
263 exercising their second program election under this paragraph.
264 The actuarial funded status of the pension plan will not be
265 affected by such second program elections in any significant
266 manner, after due recognition of the separate unfunded actuarial
267 base. Following the initial 25-year period, any remaining
268 balance of the original separate base shall be amortized over
269 the remaining 5 years of the required 30-year amortization
270 period.

271 5. If the employee chooses to transfer from the investment
272 plan to the pension plan and retains an excess account balance
273 in the investment plan after satisfying the buy-in requirements
274 under this paragraph, the excess may not be distributed until
275 the member retires from the pension plan. The excess account

276 balance may be rolled over to the pension plan and used to
277 purchase service credit or upgrade creditable service in the
278 pension plan.

279 Section 4. Subsection (2) of section 121.71, Florida
280 Statutes, is amended to read:

281 121.71 Uniform rates; process; calculations; levy.—

282 (2) (a) Based on the uniform rates set forth in subsections
283 (3), (4), and (5), employees and employers shall make monthly
284 contributions to the Division of Retirement as required in s.
285 121.061(1), which shall initially deposit the funds into the
286 Florida Retirement System Contributions Clearing Trust Fund. A
287 change in a contribution rate is effective the first day of the
288 month for which a full month's employer and employee
289 contribution may be made on or after the beginning date of the
290 change. Beginning July 1, 2011, each employee shall contribute
291 the contributions required in subsection (3). The employer shall
292 deduct the contribution from the employee's monthly salary, and
293 the contribution shall be submitted to the division. These
294 contributions shall be reported as employer-paid employee
295 contributions, and credited to the account of the employee. The
296 contributions shall be deducted from the employee's salary
297 before the computation of applicable federal taxes and treated
298 as employer contributions under 26 U.S.C. s. 414(h)(2). The
299 employer specifies that the contributions, although designated
300 as employee contributions, are being paid by the employer in

301 lieu of contributions by the employee. The employee does not
302 have the option of choosing to receive the contributed amounts
303 directly instead of having them paid by the employer to the
304 plan. Such contributions are mandatory, and each employee is
305 considered to have consented to payroll deductions. Payment of
306 an employee's salary or wages, less the contribution, is a full
307 and complete discharge and satisfaction of all claims and
308 demands for the service rendered by employees during the period
309 covered by the payment, except their claims to the benefits to
310 which they may be entitled under this chapter.

311 (b) Effective July 1, 2021, employees in the pension plan
312 may contribute an amount in addition to the required retirement
313 contribution rate provided in subsection (3). Any amount
314 contributed in excess of the rate under subsection (3) must be
315 segregated from the employees' required retirement contribution
316 and used to purchase additional retirement service credit in the
317 membership class in which the member belongs. Additional service
318 purchased under this paragraph must be added to the credible
319 service of the member and used to vest for retirement
320 eligibility, and must be used in the calculation of benefits.

321 Section 5. The Legislature finds that a proper and
322 legitimate state purpose is served when employees and retirees
323 of the state and its political subdivisions, and the dependents,
324 survivors, and beneficiaries of such employees and retirees, are
325 extended the basic protections afforded by governmental

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326 | retirement systems. These persons must be provided benefits that
327 | are fair and adequate and that are managed, administered, and
328 | funded in an actuarially sound manner, as required by s. 14,
329 | Article X of the State Constitution and part VII of chapter 112,
330 | Florida Statutes. Therefore, the Legislature determines and
331 | declares that this act fulfills an important state interest.

332 | Section 6. This act shall take effect July 1, 2021.