

By Senator Ausley

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1 A bill to be entitled
2 An act relating to the Florida Retirement System;
3 amending s. 121.051, F.S.; providing for compulsory
4 membership in the Florida Retirement System for
5 certain governing bodies established on or after a
6 specified date; amending s. 121.091, F.S.; requiring
7 certain benefits be paid to a beneficiary who does not
8 qualify as a joint annuitant; providing an exception
9 to the employment after retirement limitations for
10 retirees who hold an elective office with a covered
11 employer; amending s. 121.4501, F.S.; authorizing
12 eligible employees an additional opportunity to
13 transfer from the investment plan to the pension plan
14 within a specified timeframe; amending s. 121.71,
15 F.S.; authorizing pension plan members to contribute
16 amounts in addition to the required member rate to the
17 Florida Retirement System for a specified purpose;
18 providing a declaration of important state interest;
19 providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Paragraph (b) of subsection (2) of section
24 121.051, Florida Statutes, is amended to read:

25 121.051 Participation in the system.—

26 (2) OPTIONAL PARTICIPATION.—

27 (b)1. Before July 1, 2021, the governing body of any
28 municipality, metropolitan planning organization, or special
29 district in the state may elect to participate in the Florida

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

50 a.2- A municipality, metropolitan planning organization, or
51 special district that has an existing retirement system covering
52 the employees in the units that are to be brought under the
53 Florida Retirement System may participate only after holding a
54 referendum in which all employees in the affected units have the
55 right to participate. Only those employees electing coverage
56 under the Florida Retirement System by affirmative vote in the
57 referendum are eligible for coverage under this chapter, and
58 those not participating or electing not to be covered by the

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59 Florida Retirement System shall remain in their present systems
60 and are not eligible for coverage under this chapter. After the
61 referendum is held, all future employees are compulsory members
62 of the Florida Retirement System.

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

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

76 ~~d.5.~~ Subject to sub-subparagraph e. ~~subparagraph 6.,~~ the
77 governing body of a hospital licensed under chapter 395 which is
78 governed by the governing body of a special district as defined
79 in s. 189.012 or by the board of trustees of a public health
80 trust created under s. 154.07, hereinafter referred to as
81 "hospital district," and which participates in the Florida
82 Retirement System, may elect to cease participation in the
83 system with regard to future employees in accordance with the
84 following:

85 ~~(I)a.~~ No more than 30 days and at least 7 days before
86 adopting a resolution to partially withdraw from the system and
87 establish an alternative retirement plan for future employees, a

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88 public hearing must be held on the proposed withdrawal and
89 proposed alternative plan.

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

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

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

113 e.6. Following the adoption of a resolution under sub-sub-
114 subparagraph d. (IV) ~~sub-subparagraph 5.d.~~, all employees of the
115 withdrawing hospital district who were members of the system
116 before January 1, 1996, shall remain as members of the system

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117 for as long as they are employees of the hospital district, and
118 all rights, duties, and obligations between the hospital
119 district, the system, and the employees remain in full force and
120 effect. Any employee who is hired or appointed on or after
121 January 1, 1996, may not participate in the system, and the
122 withdrawing hospital district has no obligation to the system
123 with respect to such employees.

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

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

136 Section 2. Paragraph (b) of subsection (7) of section
137 121.091, Florida Statutes, is amended, and paragraph (g) is
138 added to subsection (9) of that section, to read:

139 121.091 Benefits payable under the system.—Benefits may not
140 be paid under this section unless the member has terminated
141 employment as provided in s. 121.021(39) (a) or begun
142 participation in the Deferred Retirement Option Program as
143 provided in subsection (13), and a proper application has been
144 filed in the manner prescribed by the department. The department
145 may cancel an application for retirement benefits when the

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146 member or beneficiary fails to timely provide the information
147 and documents required by this chapter and the department's
148 rules. The department shall adopt rules establishing procedures
149 for application for retirement benefits and for the cancellation
150 of such application when the required information or documents
151 are not received.

152 (7) DEATH BENEFITS.—

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

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

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

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175 which such beneficiary is eligible, the beneficiary shall be the
176 next named beneficiary or, if no other beneficiary is named, the
177 beneficiary shall be the next eligible beneficiary according to
178 subsection (8).

179 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

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

190 Section 3. Paragraph (f) of subsection (4) of section
191 121.4501, Florida Statutes, is amended to read:

192 121.4501 Florida Retirement System Investment Plan.—

193 (4) PARTICIPATION; ENROLLMENT.—

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

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

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

219 2. If the employee chooses to move to the pension plan, the
220 employee must transfer from his or her investment plan account,
221 and from other employee moneys as necessary, a sum representing
222 the present value of that employee's accumulated benefit
223 obligation immediately following the time of such movement,
224 determined assuming that attained service equals the sum of
225 service in the pension plan and service in the investment plan.
226 Benefit commencement occurs on the first date the employee is
227 eligible for unreduced benefits, using the discount rate and
228 other relevant actuarial assumptions that were used to value the
229 pension plan liabilities in the most recent actuarial valuation.
230 For any employee who, at the time of the second election,
231 already maintains an accrued benefit amount in the pension plan,
232 the then-present value of the accrued benefit is deemed part of

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233 the required transfer amount. The division must ensure that the
234 transfer sum is prepared using a formula and methodology
235 certified by an enrolled actuary. A refund of any employee
236 contributions or additional member payments made which exceed
237 the employee contributions that would have accrued had the
238 member remained in the pension plan and not transferred to the
239 investment plan is not permitted.

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

253 4. An employee's ability to transfer from the pension plan
254 to the investment plan under ~~pursuant to~~ paragraphs (a) and (b),
255 and the ability of a current employee to have an option to later
256 transfer back into the pension plan under subparagraph 2., is
257 considered ~~shall be deemed~~ a significant system amendment. Under
258 ~~Pursuant to~~ s. 121.031(4), any resulting unfunded liability
259 arising from actual original transfers from the pension plan to
260 the investment plan must be amortized within 30 plan years as a
261 separate unfunded actuarial base independent of the reserve

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262 stabilization mechanism defined in s. 121.031(3)(f). For the
263 first 25 years, a direct amortization payment may not be
264 calculated for this base. During this 25-year period, the
265 separate base shall be used to offset the impact of employees
266 exercising their second program election under this paragraph.
267 The actuarial funded status of the pension plan will not be
268 affected by such second program elections in any significant
269 manner, after due recognition of the separate unfunded actuarial
270 base. Following the initial 25-year period, any remaining
271 balance of the original separate base shall be amortized over
272 the remaining 5 years of the required 30-year amortization
273 period.

274 5. If the employee chooses to transfer from the investment
275 plan to the pension plan and retains an excess account balance
276 in the investment plan after satisfying the buy-in requirements
277 under this paragraph, the excess may not be distributed until
278 the member retires from the pension plan. The excess account
279 balance may be rolled over to the pension plan and used to
280 purchase service credit or upgrade creditable service in the
281 pension plan.

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

284 121.71 Uniform rates; process; calculations; levy.—

285 (2) (a) Based on the uniform rates set forth in subsections
286 (3), (4), and (5), employees and employers shall make monthly
287 contributions to the Division of Retirement as required in s.
288 121.061(1), which shall initially deposit the funds into the
289 Florida Retirement System Contributions Clearing Trust Fund. A
290 change in a contribution rate is effective the first day of the

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291 month for which a full month's employer and employee
292 contribution may be made on or after the beginning date of the
293 change. Beginning July 1, 2011, each employee shall contribute
294 the contributions required in subsection (3). The employer shall
295 deduct the contribution from the employee's monthly salary, and
296 the contribution shall be submitted to the division. These
297 contributions shall be reported as employer-paid employee
298 contributions, and credited to the account of the employee. The
299 contributions shall be deducted from the employee's salary
300 before the computation of applicable federal taxes and treated
301 as employer contributions under 26 U.S.C. s. 414(h) (2). The
302 employer specifies that the contributions, although designated
303 as employee contributions, are being paid by the employer in
304 lieu of contributions by the employee. The employee does not
305 have the option of choosing to receive the contributed amounts
306 directly instead of having them paid by the employer to the
307 plan. Such contributions are mandatory, and each employee is
308 considered to have consented to payroll deductions. Payment of
309 an employee's salary or wages, less the contribution, is a full
310 and complete discharge and satisfaction of all claims and
311 demands for the service rendered by employees during the period
312 covered by the payment, except their claims to the benefits to
313 which they may be entitled under this chapter.

314 (b) Effective July 1, 2021, employees in the pension plan
315 may contribute an amount in addition to the required retirement
316 contribution rate provided in subsection (3). Any amount
317 contributed in excess of the rate under subsection (3) must be
318 segregated from the employees' required retirement contribution
319 and used to purchase additional retirement service credit in the

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320 membership class in which the member belongs. Additional service
321 purchased under this paragraph must be added to the credible
322 service of the member and used to vest for retirement
323 eligibility, and must be used in the calculation of benefits.

324 Section 5. The Legislature finds that a proper and
325 legitimate state purpose is served when employees and retirees
326 of the state and its political subdivisions, and the dependents,
327 survivors, and beneficiaries of such employees and retirees, are
328 extended the basic protections afforded by governmental
329 retirement systems. These persons must be provided benefits that
330 are fair and adequate and that are managed, administered, and
331 funded in an actuarially sound manner, as required by s. 14,
332 Article X of the State Constitution and part VII of chapter 112,
333 Florida Statutes. Therefore, the Legislature determines and
334 declares that this act fulfills an important state interest.

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