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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2021	.	
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The Committee on Appropriations (Rodrigues) recommended the following:

Senate Amendment (with title amendment)

Delete lines 196 - 535

and insert:

(3) INVESTMENT PLAN MEMBERSHIP COMPULSORY.-

(a) All eligible employees and officers, except Special Risk Class members, those employees and officers eligible to withdraw from the system under s. 121.052(3)(d) or s. 121.055(1)(b)2., or those employees eligible for optional retirement programs under s. 121.051(1)(a), s. 121.051(2)(c), or s. 121.35,



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11 initially enrolled on or after July 1, 2022, are compulsory
12 members of the investment plan, and membership in the pension
13 plan is not permitted except as provided in s. 121.591(2) and
14 (4). Employees initially enrolled on or after July 1, 2022, are
15 not eligible to use the election opportunity specified in s.
16 121.4501(4) (e).

17 (b) Employees eligible to withdraw from the system under s.
18 121.052(3) (d) or s. 121.055(1) (b)2. may choose to withdraw from
19 the system or to participate in the investment plan as provided
20 in those sections. Employees eligible for optional retirement
21 programs under s. 121.051(2) (c) or s. 121.35 may choose to
22 participate in the optional retirement program or the investment
23 plan as provided in those sections. Eligible employees required
24 to participate in the optional retirement program under s.
25 121.35, pursuant to s. 121.051(1) (a), must participate in the
26 investment plan when employed in a position not eligible for the
27 optional retirement program.

28 Section 2. Paragraph (c) of subsection (3) of section
29 121.052, Florida Statutes, is amended to read:

30 121.052 Membership class of elected officers.—

31 (3) PARTICIPATION AND WITHDRAWAL, GENERALLY.—Effective July
32 1, 1990, participation in the Elected Officers' Class shall be
33 compulsory for elected officers listed in paragraphs (2) (a)-(d)
34 and (f) assuming office on or after said date, unless the
35 elected officer elects membership in another class or withdraws
36 from the Florida Retirement System as provided in paragraphs
37 (3) (a)-(d):

38 (c) Before July 1, 2022, an any elected officer may, within
39 6 months after assuming office, ~~or within 6 months after this~~



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40 ~~act becomes a law for serving elected officers,~~ elect membership
41 in the Senior Management Service Class as provided in s. 121.055
42 in lieu of membership in the Elected Officers' Class. ~~Any~~ Such
43 election does not affect ~~made by a county elected officer shall~~
44 ~~have no effect upon~~ the statutory limit on the number of
45 nonelective full-time positions that may be designated by a
46 local agency employer for inclusion in the Senior Management
47 Service Class under s. 121.055(1)(b)1.

48 Section 3. Paragraph (c) of subsection (3) of section
49 121.35, Florida Statutes, is amended to read:

50 121.35 Optional retirement program for the State University
51 System.—

52 (3) ELECTION OF OPTIONAL PROGRAM.—

53 (c) An ~~any~~ employee who becomes eligible to participate in
54 the optional retirement program on or after January 1, 1993,
55 shall be a compulsory participant of the program unless such
56 employee elects membership in the Florida Retirement System.
57 Such election must ~~shall~~ be ~~made~~ in writing and filed with the
58 personnel officer of the employer. An ~~any~~ eligible employee who
59 fails to make such election within the prescribed time period
60 shall be deemed to have elected to participate in the optional
61 retirement program.

62 1. An ~~any~~ employee whose optional retirement program
63 eligibility results from initial employment shall be enrolled in
64 the program at the commencement of employment. If, within 90
65 days after commencement of employment, the employee elects
66 membership in the Florida Retirement System, such membership
67 shall be effective retroactive to the date of commencement of
68 employment as provided in s. 121.4501(4).



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69 2. An ~~Any~~ employee whose optional retirement program
70 eligibility results from a change in status due to the
71 subsequent designation of the employee's position as one of
72 those specified in paragraph (2) (a) or due to the employee's
73 appointment, promotion, transfer, or reclassification to a
74 position specified in paragraph (2) (a) shall be enrolled in the
75 optional retirement program upon such change in status and shall
76 be notified by the employer of such action. If, within 90 days
77 after the date of such notification, the employee elects to
78 retain membership in the Florida Retirement System, such
79 continuation of membership shall be retroactive to the date of
80 the change in status.

81 3. Notwithstanding subparagraphs 1. and 2. ~~the provisions~~
82 ~~of this paragraph~~, effective July 1, 1997, an ~~any~~ employee who
83 is eligible to participate in the optional retirement program
84 and who fails to execute a contract with one of the approved
85 companies and to notify the department in writing as provided in
86 subsection (4) within 90 days after the date of eligibility is
87 ~~shall be~~ deemed to have elected membership in the Florida
88 Retirement System, except as provided in s. 121.051(1) (a). This
89 subparagraph provision shall also applies ~~apply~~ to any employee
90 who terminates employment in an eligible position before
91 executing the required investment ~~annuity~~ contract and notifying
92 the department. Such membership shall be retroactive to the date
93 of eligibility, and all appropriate contributions shall be
94 transferred to the Florida Retirement System Trust Fund and the
95 Retiree Health Insurance Subsidy Trust Fund. If a member is
96 initially enrolled on or after July 1, 2022, and fails to
97 execute a contract with one of the approved companies and notify



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98 the department in writing within 90 days after the date of
99 eligibility as provided in subsection (4), the member is deemed
100 to have elected membership in the Florida Retirement System
101 Investment Plan and such membership shall be retroactive to the
102 date of eligibility. All contributions required under s. 121.72
103 shall be transferred to a default fund in the investment plan as
104 provided in s. 121.4501(4)(g) and the Retiree Health Insurance
105 Subsidy Trust Fund.

106 Section 4. Subsections (1), (4), (8), (10), and (15) of
107 section 121.4501, Florida Statutes, are amended to read:

108 121.4501 Florida Retirement System Investment Plan.—

109 (1) ESTABLISHMENT.—The Trustees of the State Board of
110 Administration shall establish a defined contribution program
111 called the “Florida Retirement System Investment Plan” or
112 “investment plan” for members of the Florida Retirement System
113 under which retirement benefits will be provided for eligible
114 employees initially enrolled before July 1, 2022, who elect to
115 participate in the program, for Special Risk members, regardless
116 of the date of initial enrollment, who elect to participate in
117 the program, and for all other eligible employees initially
118 enrolled on or after July 1, 2022, who are compulsory members of
119 the investment plan pursuant to paragraph (4)(g). The retirement
120 benefits shall be provided through member-directed investments,
121 in accordance with s. 401(a) of the Internal Revenue Code and
122 related regulations. The employer and employee shall make
123 contributions, as provided in this section and ss. 121.571 and
124 121.71, to the Florida Retirement System Investment Plan Trust
125 Fund toward the funding of benefits.

126 (4) PARTICIPATION; ENROLLMENT.—



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127 (a)1. Effective June 1, 2002, through February 28, 2003, a
128 90-day election period was provided to each eligible employee
129 participating in the Florida Retirement System, preceded by a
130 90-day education period, permitting each eligible employee to
131 elect membership in the investment plan. An employee who failed
132 to elect the investment plan during the election period remained
133 in the pension plan. An eligible employee who was employed in a
134 regularly established position during the election period was
135 granted the option to make one subsequent election, as provided
136 in paragraph (f). With respect to an eligible employee who did
137 not participate in the initial election period or who is
138 initially employed in a regularly established position after the
139 close of the initial election period but before January 1, 2018,
140 such employee shall, by default, be enrolled in the pension plan
141 at the commencement of employment and may, by the last business
142 day of the 5th month following the employee's month of hire,
143 elect to participate in the investment plan. The employee's
144 election must be made in writing or by electronic means and must
145 be filed with the third-party administrator. The election to
146 participate in the investment plan is irrevocable, except as
147 provided in paragraph (f).

148 a. If the employee files such election within the
149 prescribed time period, enrollment in the investment plan is
150 effective on the first day of employment. The retirement
151 contributions paid through the month of the employee plan change
152 shall be transferred to the investment program, and, effective
153 the first day of the next month, the employer and employee must
154 pay the applicable contributions based on the employee
155 membership class in the program.



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156 b. An employee who fails to elect to participate in the
157 investment plan within the prescribed time period is deemed to
158 have elected to retain membership in the pension plan, and the
159 employee's option to elect to participate in the investment plan
160 is forfeited.

161 2. With respect to employees who become eligible to
162 participate in the investment plan pursuant to s.
163 121.051(2)(c)3. or s. 121.35(3)(i), the employee may elect to
164 participate in the investment plan in lieu of retaining his or
165 her membership in the State Community College System Optional
166 Retirement Program or the State University System Optional
167 Retirement Program. The election must be made in writing or by
168 electronic means and must be filed with the third-party
169 administrator. This election is irrevocable, except as provided
170 in paragraph (f). Upon making such election, the employee shall
171 be enrolled as a member in the investment plan, the employee's
172 membership in the Florida Retirement System is governed by the
173 provisions of this part, and the employee's participation in the
174 State Community College System Optional Retirement Program or
175 the State University System Optional Retirement Program
176 terminates. The employee's enrollment in the investment plan is
177 effective on the first day of the month for which a full month's
178 employer and employee contribution is made to the investment
179 plan.

180 (b)1. With respect to employees who become eligible to
181 participate in the investment plan by reason of employment in a
182 regularly established position commencing on or after January 1,
183 2018, through June 30, 2022, or who did not complete an election
184 window before June 30, 2022, ~~January 1, 2018,~~ or any employee in



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185 the Special Risk Class initially enrolled on or after July 1,
186 2022, any such employee shall be enrolled in the pension plan at
187 the commencement of employment and may, by the last business day
188 of the eighth month following the employee's month of hire,
189 elect to participate in the pension plan or the investment plan.
190 Eligible employees may make a plan election only if they are
191 earning service credit in an employer-employee relationship
192 consistent with s. 121.021(17) (b), excluding leaves of absence
193 without pay.

194 2. The employee's election must be made in writing or by
195 electronic means and must be filed with the third-party
196 administrator. The election to participate in the pension plan
197 or investment plan is irrevocable, except as provided in
198 paragraph (f).

199 3.a. Except as provided in subparagraph 4., if the employee
200 fails to make an election to either the pension plan or the
201 investment plan during the 8-month period following the month of
202 hire, the employee is deemed to have elected the investment plan
203 and shall default into the investment plan retroactively to the
204 employee's date of employment. The employee's option to
205 participate in the pension plan is forfeited, except as provided
206 in paragraph (f).

207 b. The amount of the employee and employer contributions
208 paid through the date of default to the investment plan shall be
209 transferred to the investment plan and shall be placed in a
210 default fund as designated by the State Board of Administration.
211 The employee may move the contributions once an account is
212 activated in the investment plan.

213 4. If the employee is employed in a position included in



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214 the Special Risk Class and fails to make an election to either
215 the pension plan or the investment plan during the 8-month
216 period following the month of hire, the employee is deemed to
217 have elected the pension plan and shall default into the pension
218 plan retroactively to the employee's date of employment. The
219 employee's option to participate in the investment plan is
220 forfeited, except as provided in paragraph (f).

221 5. Effective the first day of the month after an eligible
222 employee makes a plan election of the pension plan or investment
223 plan, or the first day of the month after default, the employee
224 and employer shall pay the applicable contributions based on the
225 employee membership class in the program.

226 (c) Contributions available for self-direction by a member
227 who has not selected one or more specific investment products
228 shall be allocated as prescribed by the state board. The third-
229 party administrator shall notify the member at least quarterly
230 that the member should take an affirmative action to make an
231 asset allocation among the investment products.

232 (d) On or after July 1, 2011, a member of the pension plan
233 who obtains a refund of employee contributions retains his or
234 her prior plan choice upon return to employment in a regularly
235 established position with a participating employer.

236 (e)1. A member of the investment plan who takes a
237 distribution of any contributions from his or her investment
238 plan account is considered a retiree. A retiree who is initially
239 reemployed in a regularly established position on or after July
240 1, 2010, through June 30, 2017, is not eligible for renewed
241 membership, except as provided in s. 121.122.

242 2. A retiree who is reemployed on or after July 1, 2017,



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243 shall be enrolled as a renewed member as provided in s. 121.122.

244 (f) After the period during which an eligible employee
245 initially enrolled before July 1, 2022, had the choice to elect
246 the pension plan or the investment plan, or the month following
247 the receipt of the eligible employee's plan election, if sooner,
248 the employee shall have one opportunity, at the employee's
249 discretion, to choose to move from the pension plan to the
250 investment plan or from the investment plan to the pension plan.
251 Eligible employees may elect to move between plans only if they
252 are earning service credit in an employer-employee relationship
253 consistent with s. 121.021(17) (b), excluding leaves of absence
254 without pay. Effective July 1, 2005, such elections are
255 effective on the first day of the month following the receipt of
256 the election by the third-party administrator and are not
257 subject to the requirements regarding an employer-employee
258 relationship or receipt of contributions for the eligible
259 employee in the effective month, except when the election is
260 received by the third-party administrator. This paragraph is
261 contingent upon approval by the Internal Revenue Service.

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

264 2. If the employee chooses to move to the pension plan, the
265 employee must transfer from his or her investment plan account,
266 and from other employee moneys as necessary, a sum representing
267 the present value of that employee's accumulated benefit
268 obligation immediately following the time of such movement,
269 determined assuming that attained service equals the sum of
270 service in the pension plan and service in the investment plan.
271 Benefit commencement occurs on the first date the employee is



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272 eligible for unreduced benefits, using the discount rate and
273 other relevant actuarial assumptions that were used to value the
274 pension plan liabilities in the most recent actuarial valuation.
275 For any employee who, at the time of the second election,
276 already maintains an accrued benefit amount in the pension plan,
277 the then-present value of the accrued benefit is deemed part of
278 the required transfer amount. The division must ensure that the
279 transfer sum is prepared using a formula and methodology
280 certified by an enrolled actuary. A refund of any employee
281 contributions or additional member payments made which exceed
282 the employee contributions that would have accrued had the
283 member remained in the pension plan and not transferred to the
284 investment plan is not permitted.

285 3. Notwithstanding subparagraph 2., an employee who chooses
286 to move to the pension plan and who became eligible to
287 participate in the investment plan by reason of employment in a
288 regularly established position with a state employer after June
289 1, 2002; a district school board employer after September 1,
290 2002; or a local employer after December 1, 2002, must transfer
291 from his or her investment plan account, and from other employee
292 moneys as necessary, a sum representing the employee's actuarial
293 accrued liability. A refund of any employee contributions or
294 additional member payments made which exceed the employee
295 contributions that would have accrued had the member remained in
296 the pension plan and not transferred to the investment plan is
297 not permitted.

298 4. An employee's ability to transfer from the pension plan
299 to the investment plan pursuant to paragraphs (a) and (b), and
300 the ability of a current employee to have an option to later



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301 transfer back into the pension plan under subparagraph 2., shall
302 be deemed a significant system amendment. Pursuant to s.
303 121.031(4), any resulting unfunded liability arising from actual
304 original transfers from the pension plan to the investment plan
305 must be amortized within 30 plan years as a separate unfunded
306 actuarial base independent of the reserve stabilization
307 mechanism defined in s. 121.031(3)(f). For the first 25 years, a
308 direct amortization payment may not be calculated for this base.
309 During this 25-year period, the separate base shall be used to
310 offset the impact of employees exercising their second program
311 election under this paragraph. The actuarial funded status of
312 the pension plan will not be affected by such second program
313 elections in any significant manner, after due recognition of
314 the separate unfunded actuarial base. Following the initial 25-
315 year period, any remaining balance of the original separate base
316 shall be amortized over the remaining 5 years of the required
317 30-year amortization period.

318 5. If the employee chooses to transfer from the investment
319 plan to the pension plan and retains an excess account balance
320 in the investment plan after satisfying the buy-in requirements
321 under this paragraph, the excess may not be distributed until
322 the member retires from the pension plan. The excess account
323 balance may be rolled over to the pension plan and used to
324 purchase service credit or upgrade creditable service in the
325 pension plan.

326 (g)1. All eligible employees, except Special Risk Class
327 members, those employees eligible to withdraw from the system
328 under s. 121.052(3)(d) or s. 121.055(1)(b)2., or those employees
329 eligible for optional retirement programs under s.



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330 121.051(1)(a), s. 121.051(2)(c), or s. 121.35, initially
331 enrolled on or after July 1, 2022, are compulsory members of the
332 investment plan. Employees eligible to withdraw from the system
333 under s. 121.052(3)(d) or s. 121.055(1)(b)2. may choose to
334 withdraw from the system or to participate in the investment
335 plan as provided in those sections. Employees eligible for
336 optional retirement programs under s. 121.051(2)(c) or s.
337 121.35, except as provided in s. 121.051(1)(a), may choose to
338 participate in the optional retirement program or the investment
339 plan as provided in those sections. Membership in the pension
340 plan is not authorized except as provided in s. 121.591(2) and
341 (4).

342 2. Employees who are compulsory members of the investment
343 plan may not use the election opportunity specified in paragraph
344 (f) unless the employee is initially enrolled in a class other
345 than the Special Risk Class and is employed subsequently in a
346 position in the Special Risk Class.

347 3. As required under s. 121.72, the amount of retirement
348 contributions paid by the employee and employer shall be
349 transferred to the investment plan and placed in a default fund
350 designated by the state board.

351
352 ===== T I T L E A M E N D M E N T =====

353 And the title is amended as follows:

354 Delete lines 3 - 6

355 and insert:

356 F.S.; providing for compulsory membership in the
357 Florida Retirement System Investment Plan for
358 specified employees initially enrolled on or after a



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specified date; providing exceptions; conforming
provisions to