

By Senator Rodrigues

27-00770D-21

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1 A bill to be entitled
2 An act relating to retirement; amending s. 121.051,
3 F.S.; providing for compulsory membership in the
4 Florida Retirement System Investment Plan for
5 employees initially enrolled on or after a specified
6 date; providing exceptions; conforming provisions to
7 changes made by the act; amending s. 121.052, F.S.;
8 removing authorization for an elected officer to elect
9 membership in the Senior Management Service Class on
10 or after a specified date; amending s. 121.35, F.S.;
11 modifying provisions governing participation in the
12 investment plan for individuals who are eligible to
13 participate in the State University System Optional
14 Retirement Program to conform to changes made by the
15 act; providing for the transfer of contributions for
16 employees who default into the investment plan;
17 amending s. 121.4501, F.S.; modifying provisions
18 governing the administration of the investment plan to
19 reflect compulsory membership for specified employees;
20 amending s. 121.74, F.S.; revising the employer
21 assessment rate to fund certain administrative and
22 educational expenses related to investment plan
23 administration as of a specified date; amending ss.
24 238.072 and 413.051, F.S.; conforming cross-references
25 to changes made by the act; providing a declaration of
26 important state interest; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Present subsections (3) through (9) of section
31 121.051, Florida Statutes, are redesignated as subsections (4)
32 through (10), respectively, a new subsection (3) is added to
33 that section, and paragraph (c) of subsection (2) of that
34 section is amended, to read:

35 121.051 Participation in the system.—

36 (2) OPTIONAL PARTICIPATION.—

37 (c) Employees of public community colleges or charter
38 technical career centers sponsored by public community colleges,
39 designated in s. 1000.21(3), who are members of the Regular
40 Class of the Florida Retirement System and who comply with the
41 criteria set forth in this paragraph and s. 1012.875 may, in
42 lieu of participating in the Florida Retirement System, elect to
43 withdraw from the system altogether and participate in the State
44 Community College System Optional Retirement Program provided by
45 the employing agency under s. 1012.875.

46 1.a. Through June 30, 2001, the cost to the employer for
47 benefits under the optional retirement program equals the normal
48 cost portion of the employer retirement contribution which would
49 be required if the employee were a member of the pension plan's
50 Regular Class, plus the portion of the contribution rate
51 required by s. 112.363(8) which would otherwise be assigned to
52 the Retiree Health Insurance Subsidy Trust Fund.

53 b. Effective July 1, 2001, through June 30, 2011, each
54 employer shall contribute on behalf of each member of the
55 optional program an amount equal to 10.43 percent of the
56 employee's gross monthly compensation. The employer shall deduct
57 an amount for the administration of the program.

58 c. Effective July 1, 2011, through June 30, 2012, each

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59 member shall contribute an amount equal to the employee
60 contribution required under s. 121.71(3). The employer shall
61 contribute on behalf of each program member an amount equal to
62 the difference between 10.43 percent of the employee's gross
63 monthly compensation and the employee's required contribution
64 based on the employee's gross monthly compensation.

65 d. Effective July 1, 2012, each member shall contribute an
66 amount equal to the employee contribution required under s.
67 121.71(3). The employer shall contribute on behalf of each
68 program member an amount equal to the difference between 8.15
69 percent of the employee's gross monthly compensation and the
70 employee's required contribution based on the employee's gross
71 monthly compensation.

72 e. The employer shall contribute an additional amount to
73 the Florida Retirement System Trust Fund equal to the unfunded
74 actuarial accrued liability portion of the Regular Class
75 contribution rate.

76 2. The decision to participate in the optional retirement
77 program is irrevocable as long as the employee holds a position
78 eligible for participation, except as provided in subparagraph
79 3. Any service creditable under the Florida Retirement System is
80 retained after the member withdraws from the system; however,
81 additional service credit in the system may not be earned while
82 a member of the optional retirement program.

83 3. Effective July 1, 2003, through June 30, 2022, an
84 employee who has elected to participate in the optional
85 retirement program shall have one opportunity, at the employee's
86 discretion, to transfer from the optional retirement program to
87 the pension plan of the Florida Retirement System or to the

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88 investment plan established under part II of this chapter,
89 subject to the terms of the applicable optional retirement
90 program contracts. Except as provided in subsection (3), an
91 employee participating in the optional retirement program on or
92 after July 1, 2022, is not eligible to transfer to the Florida
93 Retirement System.

94 a. If the employee chooses to move to the investment plan,
95 any contributions, interest, and earnings creditable to the
96 employee under the optional retirement program are retained by
97 the employee in the optional retirement program, and the
98 applicable provisions of s. 121.4501(4) govern the election.

99 b. If the employee chooses to move to the pension plan of
100 the Florida Retirement System, the employee shall receive
101 service credit equal to his or her years of service under the
102 optional retirement program.

103 (I) The cost for such credit is the amount representing the
104 present value of the employee's accumulated benefit obligation
105 for the affected period of service. The cost shall be calculated
106 as if the benefit commencement occurs on the first date the
107 employee becomes eligible for unreduced benefits, using the
108 discount rate and other relevant actuarial assumptions that were
109 used to value the Florida Retirement System Pension Plan
110 liabilities in the most recent actuarial valuation. The
111 calculation must include any service already maintained under
112 the pension plan in addition to the years under the optional
113 retirement program. The present value of any service already
114 maintained must be applied as a credit to total cost resulting
115 from the calculation. The division must ensure that the transfer
116 sum is prepared using a formula and methodology certified by an

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117 enrolled actuary.

118 (II) The employee must transfer from his or her optional
119 retirement program account and from other employee moneys as
120 necessary, a sum representing the present value of the
121 employee's accumulated benefit obligation immediately following
122 the time of such movement, determined assuming that attained
123 service equals the sum of service in the pension plan and
124 service in the optional retirement program.

125 4. Participation in the optional retirement program is
126 limited to employees who satisfy the following eligibility
127 criteria:

128 a. The employee is otherwise eligible for membership or
129 renewed membership in the Regular Class of the Florida
130 Retirement System, as provided in s. 121.021(11) and (12) or s.
131 121.122.

132 b. The employee is employed in a full-time position
133 classified in the Accounting Manual for Florida's College System
134 as:

135 (I) Instructional; or

136 (II) Executive Management, Instructional Management, or
137 Institutional Management and the community college determines
138 that recruiting to fill a vacancy in the position is to be
139 conducted in the national or regional market, and the duties and
140 responsibilities of the position include the formulation,
141 interpretation, or implementation of policies, or the
142 performance of functions that are unique or specialized within
143 higher education and that frequently support the mission of the
144 community college.

145 c. The employee is employed in a position not included in

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146 the Senior Management Service Class of the Florida Retirement
147 System as described in s. 121.055.

148 5. Members of the program are subject to the same
149 reemployment limitations, renewed membership provisions, and
150 forfeiture provisions applicable to regular members of the
151 Florida Retirement System under ss. 121.091(9), 121.122, and
152 121.091(5), respectively. A member who receives a program
153 distribution funded by employer and required employee
154 contributions is deemed to be retired from a state-administered
155 retirement system if the member is subsequently employed with an
156 employer that participates in the Florida Retirement System.

157 6. Eligible community college employees are compulsory
158 members of the Florida Retirement System until, pursuant to s.
159 1012.875, a written election to withdraw from the system and
160 participate in the optional retirement program is filed with the
161 program administrator and received by the division.

162 a. A community college employee whose program eligibility
163 results from initial employment shall be enrolled in the
164 optional retirement program retroactive to the first day of
165 eligible employment. The employer and employee retirement
166 contributions paid through the month of the employee plan change
167 shall be transferred to the community college to the employee's
168 optional program account, and, effective the first day of the
169 next month, the employer shall pay the applicable contributions
170 based upon subparagraph 1.

171 b. A community college employee whose program eligibility
172 is due to the subsequent designation of the employee's position
173 as one of those specified in subparagraph 4., or due to the
174 employee's appointment, promotion, transfer, or reclassification

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175 to a position specified in subparagraph 4., must be enrolled in
176 the program on the first day of the first full calendar month
177 that such change in status becomes effective. The employer and
178 employee retirement contributions paid from the effective date
179 through the month of the employee plan change must be
180 transferred to the community college to the employee's optional
181 program account, and, effective the first day of the next month,
182 the employer shall pay the applicable contributions based upon
183 subparagraph 1.

184 7. Effective July 1, 2003, through December 31, 2008, any
185 member of the optional retirement program who has service credit
186 in the pension plan of the Florida Retirement System for the
187 period between his or her first eligibility to transfer from the
188 pension plan to the optional retirement program and the actual
189 date of transfer may, during employment, transfer to the
190 optional retirement program a sum representing the present value
191 of the accumulated benefit obligation under the defined benefit
192 retirement program for the period of service credit. Upon
193 transfer, all service credit previously earned under the pension
194 plan during this period is nullified for purposes of entitlement
195 to a future benefit under the pension plan.

196 (3) INVESTMENT PLAN MEMBERSHIP COMPULSORY.-

197 (a) All eligible employees, except those eligible to
198 withdraw from the system under s. 121.052(3)(d) or s. 121.055
199 (1)(b)2., or those eligible for optional retirement programs
200 under s. 121.051(1)(a), s. 121.051(2)(c), or s. 121.35,
201 initially enrolled on or after July 1, 2022, are compulsory
202 members of the investment plan, and membership in the pension
203 plan is not permitted except as provided in s. 121.591(2) and

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204 (4). Employees initially enrolled on or after July 1, 2022, are
205 not eligible to use the election opportunity specified in s.
206 121.4501(4) (e).

207 (b) Employees eligible to withdraw from the system under s.
208 121.052(3) (d) or s. 121.055(1) (b)2. may choose to withdraw from
209 the system or to participate in the investment plan as provided
210 in those sections. Employees eligible for optional retirement
211 programs under s. 121.051(2) (c) or s. 121.35 may choose to
212 participate in the optional retirement program or the investment
213 plan as provided in those sections. Eligible employees required
214 to participate in the optional retirement program under s.
215 121.35, pursuant to s. 121.051(1) (a), must participate in the
216 investment plan when employed in a position not eligible for the
217 optional retirement program.

218 Section 2. Paragraph (c) of subsection (3) of section
219 121.052, Florida Statutes, is amended to read:

220 121.052 Membership class of elected officers.—

221 (3) PARTICIPATION AND WITHDRAWAL, GENERALLY.—Effective July
222 1, 1990, participation in the Elected Officers' Class shall be
223 compulsory for elected officers listed in paragraphs (2) (a)-(d)
224 and (f) assuming office on or after said date, unless the
225 elected officer elects membership in another class or withdraws
226 from the Florida Retirement System as provided in paragraphs
227 (3) (a)-(d) :

228 (c) Before July 1, 2022, an any elected officer may, within
229 6 months after assuming office, or ~~within 6 months after this~~
230 act becomes a law for serving elected officers, elect membership
231 in the Senior Management Service Class as provided in s. 121.055
232 in lieu of membership in the Elected Officers' Class. ~~Any~~ Such

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233 election does not affect ~~made by a county elected officer shall~~
234 ~~have no effect upon~~ the statutory limit on the number of
235 nonelective full-time positions that may be designated by a
236 local agency employer for inclusion in the Senior Management
237 Service Class under s. 121.055(1)(b)1.

238 Section 3. Paragraph (c) of subsection (3) of section
239 121.35, Florida Statutes, is amended to read:

240 121.35 Optional retirement program for the State University
241 System.—

242 (3) ELECTION OF OPTIONAL PROGRAM.—

243 (c) An ~~any~~ employee who becomes eligible to participate in
244 the optional retirement program on or after January 1, 1993,
245 shall be a compulsory participant of the program unless such
246 employee elects membership in the Florida Retirement System.
247 Such election must ~~shall~~ be ~~made~~ in writing and filed with the
248 personnel officer of the employer. An ~~any~~ eligible employee who
249 fails to make such election within the prescribed time period
250 shall be deemed to have elected to participate in the optional
251 retirement program.

252 1. An ~~any~~ employee whose optional retirement program
253 eligibility results from initial employment shall be enrolled in
254 the program at the commencement of employment. If, within 90
255 days after commencement of employment, the employee elects
256 membership in the Florida Retirement System, such membership
257 shall be effective retroactive to the date of commencement of
258 employment as provided in s. 121.4501(4).

259 2. An ~~Any~~ employee whose optional retirement program
260 eligibility results from a change in status due to the
261 subsequent designation of the employee's position as one of

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262 those specified in paragraph (2) (a) or due to the employee's
263 appointment, promotion, transfer, or reclassification to a
264 position specified in paragraph (2) (a) shall be enrolled in the
265 optional retirement program upon such change in status and shall
266 be notified by the employer of such action. If, within 90 days
267 after the date of such notification, the employee elects to
268 retain membership in the Florida Retirement System, such
269 continuation of membership shall be retroactive to the date of
270 the change in status.

271 3. Notwithstanding subparagraphs 1. and 2. ~~the provisions~~
272 ~~of this paragraph~~, effective July 1, 1997, an any employee who
273 is eligible to participate in the optional retirement program
274 and who fails to execute a contract with one of the approved
275 companies and to notify the department in writing as provided in
276 subsection (4) within 90 days after the date of eligibility is
277 ~~shall be~~ deemed to have elected membership in the Florida
278 Retirement System, except as provided in s. 121.051(1) (a). This
279 subparagraph provision shall also applies apply to any employee
280 who terminates employment in an eligible position before
281 executing the required investment annuity contract and notifying
282 the department. Such membership shall be retroactive to the date
283 of eligibility, and all appropriate contributions shall be
284 transferred to the Florida Retirement System Trust Fund and the
285 Retiree Health Insurance Subsidy Trust Fund. If a member is
286 initially enrolled on or after July 1, 2022, and fails to
287 execute a contract with one of the approved companies and notify
288 the department in writing within 90 days after the date of
289 eligibility as provided in subsection (4), the member is deemed
290 to have elected membership in the Florida Retirement System

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291 Investment Plan and such membership shall be retroactive to the
292 date of eligibility. All contributions required under s. 121.72
293 shall be transferred to a default fund in the investment plan as
294 provided in s. 121.4501(4)(g) and the Retiree Health Insurance
295 Subsidy Trust Fund.

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

298 121.4501 Florida Retirement System Investment Plan.—

299 (1) ESTABLISHMENT.—The Trustees of the State Board of
300 Administration shall establish a defined contribution program
301 called the “Florida Retirement System Investment Plan” or
302 “investment plan” for members of the Florida Retirement System
303 under which retirement benefits will be provided for eligible
304 employees initially enrolled before July 1, 2022, who elect to
305 participate in the program, and for all eligible employees
306 initially enrolled on or after July 1, 2022, who shall be
307 compulsory members unless otherwise eligible to withdraw from
308 the system under s. 121.052(3)(d) or s. 121.055(1)(b)2., or to
309 participate in an optional retirement program under s.
310 121.051(1)(a), s. 121.051(2)(c), or s. 121.35. The retirement
311 benefits shall be provided through member-directed investments,
312 in accordance with s. 401(a) of the Internal Revenue Code and
313 related regulations. The employer and employee shall make
314 contributions, as provided in this section and ss. 121.571 and
315 121.71, to the Florida Retirement System Investment Plan Trust
316 Fund toward the funding of benefits.

317 (4) PARTICIPATION; ENROLLMENT.—

318 (a)1. Effective June 1, 2002, through February 28, 2003, a
319 90-day election period was provided to each eligible employee

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320 participating in the Florida Retirement System, preceded by a
321 90-day education period, permitting each eligible employee to
322 elect membership in the investment plan. An employee who failed
323 to elect the investment plan during the election period remained
324 in the pension plan. An eligible employee who was employed in a
325 regularly established position during the election period was
326 granted the option to make one subsequent election, as provided
327 in paragraph (f). With respect to an eligible employee who did
328 not participate in the initial election period or who is
329 initially employed in a regularly established position after the
330 close of the initial election period but before January 1, 2018,
331 such employee shall, by default, be enrolled in the pension plan
332 at the commencement of employment and may, by the last business
333 day of the 5th month following the employee's month of hire,
334 elect to participate in the investment plan. The employee's
335 election must be made in writing or by electronic means and must
336 be filed with the third-party administrator. The election to
337 participate in the investment plan is irrevocable, except as
338 provided in paragraph (f).

339 a. If the employee files such election within the
340 prescribed time period, enrollment in the investment plan is
341 effective on the first day of employment. The retirement
342 contributions paid through the month of the employee plan change
343 shall be transferred to the investment program, and, effective
344 the first day of the next month, the employer and employee must
345 pay the applicable contributions based on the employee
346 membership class in the program.

347 b. An employee who fails to elect to participate in the
348 investment plan within the prescribed time period is deemed to

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349 have elected to retain membership in the pension plan, and the
350 employee's option to elect to participate in the investment plan
351 is forfeited.

352 2. With respect to employees who become eligible to
353 participate in the investment plan pursuant to s.
354 121.051(2)(c)3. or s. 121.35(3)(i), the employee may elect to
355 participate in the investment plan in lieu of retaining his or
356 her membership in the State Community College System Optional
357 Retirement Program or the State University System Optional
358 Retirement Program. The election must be made in writing or by
359 electronic means and must be filed with the third-party
360 administrator. This election is irrevocable, except as provided
361 in paragraph (f). Upon making such election, the employee shall
362 be enrolled as a member in the investment plan, the employee's
363 membership in the Florida Retirement System is governed by the
364 provisions of this part, and the employee's participation in the
365 State Community College System Optional Retirement Program or
366 the State University System Optional Retirement Program
367 terminates. The employee's enrollment in the investment plan is
368 effective on the first day of the month for which a full month's
369 employer and employee contribution is made to the investment
370 plan.

371 (b)1. With respect to employees who become eligible to
372 participate in the investment plan by reason of employment in a
373 regularly established position commencing on or after January 1,
374 2018, through June 30, 2022, or who did not complete an election
375 window before June 30, 2022, ~~January 1, 2018,~~ any such employee
376 shall be enrolled in the pension plan at the commencement of
377 employment and may, by the last business day of the eighth month

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378 following the employee's month of hire, elect to participate in
379 the pension plan or the investment plan. Eligible employees may
380 make a plan election only if they are earning service credit in
381 an employer-employee relationship consistent with s.
382 121.021(17)(b), excluding leaves of absence without pay.

383 2. The employee's election must be made in writing or by
384 electronic means and must be filed with the third-party
385 administrator. The election to participate in the pension plan
386 or investment plan is irrevocable, except as provided in
387 paragraph (f).

388 3.a. Except as provided in subparagraph 4., if the employee
389 fails to make an election to either the pension plan or the
390 investment plan during the 8-month period following the month of
391 hire, the employee is deemed to have elected the investment plan
392 and shall default into the investment plan retroactively to the
393 employee's date of employment. The employee's option to
394 participate in the pension plan is forfeited, except as provided
395 in paragraph (f).

396 b. The amount of the employee and employer contributions
397 paid through the date of default to the investment plan shall be
398 transferred to the investment plan and shall be placed in a
399 default fund as designated by the State Board of Administration.
400 The employee may move the contributions once an account is
401 activated in the investment plan.

402 4. If the employee is employed in a position included in
403 the Special Risk Class and fails to make an election to either
404 the pension plan or the investment plan during the 8-month
405 period following the month of hire, the employee is deemed to
406 have elected the pension plan and shall default into the pension

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407 plan retroactively to the employee's date of employment. The
408 employee's option to participate in the investment plan is
409 forfeited, except as provided in paragraph (f).

410 5. Effective the first day of the month after an eligible
411 employee makes a plan election of the pension plan or investment
412 plan, or the first day of the month after default, the employee
413 and employer shall pay the applicable contributions based on the
414 employee membership class in the program.

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

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

425 (e)1. A member of the investment plan who takes a
426 distribution of any contributions from his or her investment
427 plan account is considered a retiree. A retiree who is initially
428 reemployed in a regularly established position on or after July
429 1, 2010, through June 30, 2017, is not eligible for renewed
430 membership, except as provided in s. 121.122.

431 2. A retiree who is reemployed on or after July 1, 2017,
432 shall be enrolled as a renewed member as provided in s. 121.122.

433 (f) After the period during which an eligible employee
434 initially enrolled before July 1, 2022, had the choice to elect
435 the pension plan or the investment plan, or the month following

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436 the receipt of the eligible employee's plan election, if sooner,
437 the employee shall have one opportunity, at the employee's
438 discretion, to choose to move from the pension plan to the
439 investment plan or from the investment plan to the pension plan.
440 Eligible employees may elect to move between plans only if they
441 are earning service credit in an employer-employee relationship
442 consistent with s. 121.021(17)(b), excluding leaves of absence
443 without pay. Effective July 1, 2005, such elections are
444 effective on the first day of the month following the receipt of
445 the election by the third-party administrator and are not
446 subject to the requirements regarding an employer-employee
447 relationship or receipt of contributions for the eligible
448 employee in the effective month, except when the election is
449 received by the third-party administrator. This paragraph is
450 contingent upon approval by the Internal Revenue Service.

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

453 2. If the employee chooses to move to the pension plan, the
454 employee must transfer from his or her investment plan account,
455 and from other employee moneys as necessary, a sum representing
456 the present value of that employee's accumulated benefit
457 obligation immediately following the time of such movement,
458 determined assuming that attained service equals the sum of
459 service in the pension plan and service in the investment plan.
460 Benefit commencement occurs on the first date the employee is
461 eligible for unreduced benefits, using the discount rate and
462 other relevant actuarial assumptions that were used to value the
463 pension plan liabilities in the most recent actuarial valuation.
464 For any employee who, at the time of the second election,

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465 already maintains an accrued benefit amount in the pension plan,
466 the then-present value of the accrued benefit is deemed part of
467 the required transfer amount. The division must ensure that the
468 transfer sum is prepared using a formula and methodology
469 certified by an enrolled actuary. A refund of any employee
470 contributions or additional member payments made which exceed
471 the employee contributions that would have accrued had the
472 member remained in the pension plan and not transferred to the
473 investment plan is not permitted.

474 3. Notwithstanding subparagraph 2., an employee who chooses
475 to move to the pension plan and who became eligible to
476 participate in the investment plan by reason of employment in a
477 regularly established position with a state employer after June
478 1, 2002; a district school board employer after September 1,
479 2002; or a local employer after December 1, 2002, must transfer
480 from his or her investment plan account, and from other employee
481 moneys as necessary, a sum representing the employee's actuarial
482 accrued liability. A refund of any employee contributions or
483 additional member payments made which exceed the employee
484 contributions that would have accrued had the member remained in
485 the pension plan and not transferred to the investment plan is
486 not permitted.

487 4. An employee's ability to transfer from the pension plan
488 to the investment plan pursuant to paragraphs (a) and (b), and
489 the ability of a current employee to have an option to later
490 transfer back into the pension plan under subparagraph 2., shall
491 be deemed a significant system amendment. Pursuant to s.
492 121.031(4), any resulting unfunded liability arising from actual
493 original transfers from the pension plan to the investment plan

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494 must be amortized within 30 plan years as a separate unfunded
495 actuarial base independent of the reserve stabilization
496 mechanism defined in s. 121.031(3)(f). For the first 25 years, a
497 direct amortization payment may not be calculated for this base.
498 During this 25-year period, the separate base shall be used to
499 offset the impact of employees exercising their second program
500 election under this paragraph. The actuarial funded status of
501 the pension plan will not be affected by such second program
502 elections in any significant manner, after due recognition of
503 the separate unfunded actuarial base. Following the initial 25-
504 year period, any remaining balance of the original separate base
505 shall be amortized over the remaining 5 years of the required
506 30-year amortization period.

507 5. If the employee chooses to transfer from the investment
508 plan to the pension plan and retains an excess account balance
509 in the investment plan after satisfying the buy-in requirements
510 under this paragraph, the excess may not be distributed until
511 the member retires from the pension plan. The excess account
512 balance may be rolled over to the pension plan and used to
513 purchase service credit or upgrade creditable service in the
514 pension plan.

515 (g)1. All eligible employees, except those eligible to
516 withdraw from the system under s. 121.052(3)(d) or s.
517 121.055(1)(b)2., or those eligible for optional retirement
518 programs under s. 121.051(1)(a), s. 121.051(2)(c), or s. 121.35,
519 initially enrolled on or after July 1, 2022, are compulsory
520 members of the investment plan. Employees eligible to withdraw
521 from the system under s. 121.052(3)(d) or s. 121.055(1)(b)2. may
522 choose to withdraw from the system or to participate in the

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523 investment plan as provided in those sections. Employees
524 eligible for optional retirement programs under s. 121.051(2)(c)
525 or s. 121.35, except as provided in s. 121.051(1)(a), may choose
526 to participate in the optional retirement program or the
527 investment plan as provided in those sections. Membership in the
528 pension plan is not authorized except as provided in s.
529 121.591(2) and (4).

530 2. Employees initially enrolled on or after July 1, 2022,
531 may not use the election opportunity specified in paragraph (f).

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

536 (8) INVESTMENT PLAN ADMINISTRATION.—The investment plan
537 shall be administered by the state board and affected employers.
538 The state board may require oaths, by affidavit or otherwise,
539 and acknowledgments from persons in connection with the
540 administration of its statutory duties and responsibilities for
541 the investment plan. An oath, by affidavit or otherwise, may not
542 be required of a member at the time of enrollment. For members
543 initially enrolled before July 1, 2022, acknowledgment of an
544 employee's election to participate in the program shall be no
545 greater than necessary to confirm the employee's election. The
546 state board shall adopt rules to carry out its statutory duties
547 with respect to administering the investment plan, including
548 establishing the roles and responsibilities of affected state,
549 local government, and education-related employers, the state
550 board, the department, and third-party contractors. The
551 department shall adopt rules necessary to administer the

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552 investment plan in coordination with the pension plan, and the
553 disability benefits and line-of-duty death benefits available
554 under the investment plan provided in s. 121.591(2) and (4),
555 respectively.

556 (a)1. The state board shall select and contract with a
557 third-party administrator to provide administrative services if
558 those services cannot be competitively and contractually
559 provided by the division. With the approval of the state board,
560 the third-party administrator may subcontract to provide
561 components of the administrative services. As a cost of
562 administration, the state board may compensate any such
563 contractor for its services, in accordance with the terms of the
564 contract, as is deemed necessary or proper by the board. The
565 third-party administrator may not be an approved provider or be
566 affiliated with an approved provider.

567 2. These administrative services may include, but are not
568 limited to, enrollment of eligible employees, collection of
569 employer and employee contributions, disbursement of
570 contributions to approved providers in accordance with the
571 allocation directions of members; services relating to
572 consolidated billing; individual and collective recordkeeping
573 and accounting; asset purchase, control, and safekeeping; and
574 direct disbursement of funds to and from the third-party
575 administrator, the division, the state board, employers,
576 members, approved providers, and beneficiaries. This section
577 does not prevent or prohibit a bundled provider from providing
578 any administrative or customer service, including accounting and
579 administration of individual member benefits and contributions;
580 individual member recordkeeping; asset purchase, control, and

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581 safekeeping; direct execution of the member's instructions as to
582 asset and contribution allocation; calculation of daily net
583 asset values; direct access to member account information; or
584 periodic reporting to members, at least quarterly, on account
585 balances and transactions, if these services are authorized by
586 the state board as part of the contract.

587 (b)1. The state board shall select and contract with one or
588 more organizations to provide educational services. With
589 approval of the state board, the organizations may subcontract
590 to provide components of the educational services. As a cost of
591 administration, the state board may compensate any such
592 contractor for its services in accordance with the terms of the
593 contract, as is deemed necessary or proper by the board. The
594 education organization may not be an approved provider or be
595 affiliated with an approved provider.

596 2. Educational services shall be designed by the state
597 board and department to assist employers, eligible employees,
598 members, and beneficiaries in order to maintain compliance with
599 United States Department of Labor regulations under s. 404(c) of
600 the Employee Retirement Income Security Act of 1974 and to
601 assist employees in their choice of pension plan or investment
602 plan retirement alternatives. Educational services include, but
603 are not limited to, disseminating educational materials;
604 providing retirement planning education; explaining the pension
605 plan and the investment plan; and offering financial planning
606 guidance on matters such as investment diversification,
607 investment risks, investment costs, and asset allocation. An
608 approved provider may also provide educational information,
609 including retirement planning and investment allocation

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610 information concerning its products and services.

611 (c)1. In evaluating and selecting a third-party
612 administrator, the state board shall establish criteria for
613 evaluating the relative capabilities and qualifications of each
614 proposed administrator. In developing such criteria, the state
615 board shall consider:

616 a. The administrator's demonstrated experience in providing
617 administrative services to public or private sector retirement
618 systems.

619 b. The administrator's demonstrated experience in providing
620 daily valued recordkeeping to defined contribution programs.

621 c. The administrator's ability and willingness to
622 coordinate its activities with employers, the state board, and
623 the division, and to supply to such employers, the board, and
624 the division the information and data they require, including,
625 but not limited to, monthly management reports, quarterly member
626 reports, and ad hoc reports requested by the department or state
627 board.

628 d. The cost-effectiveness and levels of the administrative
629 services provided.

630 e. The administrator's ability to interact with the
631 members, the employers, the state board, the division, and the
632 providers; the means by which members may access account
633 information, direct investment of contributions, make changes to
634 their accounts, transfer moneys between available investment
635 vehicles, and transfer moneys between investment products; and
636 any fees that apply to such activities.

637 f. Any other factor deemed necessary by the state board.

638 2. In evaluating and selecting an educational provider, the

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639 state board shall establish criteria under which it shall
640 consider the relative capabilities and qualifications of each
641 proposed educational provider. In developing such criteria, the
642 state board shall consider:

643 a. Demonstrated experience in providing educational
644 services to public or private sector retirement systems.

645 b. Ability and willingness to coordinate its activities
646 with the employers, the state board, and the division, and to
647 supply to such employers, the board, and the division the
648 information and data they require, including, but not limited
649 to, reports on educational contacts.

650 c. The cost-effectiveness and levels of the educational
651 services provided.

652 d. Ability to provide educational services via different
653 media, including, but not limited to, the Internet, personal
654 contact, seminars, brochures, and newsletters.

655 e. Any other factor deemed necessary by the state board.

656 3. The establishment of the criteria shall be solely within
657 the discretion of the state board.

658 (d) The state board shall develop the form and content of
659 any contracts to be offered under the investment plan. In
660 developing the contracts, the board shall consider:

661 1. The nature and extent of the rights and benefits to be
662 afforded in relation to the contributions required under the
663 plan.

664 2. The suitability of the rights and benefits provided and
665 the interests of employers in the recruitment and retention of
666 eligible employees.

667 (e)1. The state board may contract for professional

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668 services, including legal, consulting, accounting, and actuarial
669 services, deemed necessary to implement and administer the
670 investment plan. The state board may enter into a contract with
671 one or more vendors to provide low-cost investment advice to
672 members, supplemental to education provided by the third-party
673 administrator. All fees under any such contract shall be paid by
674 those members who choose to use the services of the vendor.

675 2. The department may contract for professional services,
676 including legal, consulting, accounting, and actuarial services,
677 deemed necessary to implement and administer the investment plan
678 in coordination with the pension plan. The department, in
679 coordination with the state board, may enter into a contract
680 with the third-party administrator in order to coordinate
681 services common to the various programs within the Florida
682 Retirement System.

683 (f) The third-party administrator may not receive direct or
684 indirect compensation from an approved provider, except as
685 specifically provided for in the contract with the state board.

686 (g) The state board shall receive and resolve member
687 complaints against the program, the third-party administrator,
688 or any program vendor or provider; shall resolve any conflict
689 between the third-party administrator and an approved provider
690 if such conflict threatens the implementation or administration
691 of the program or the quality of services to employees; and may
692 resolve any other conflicts. The third-party administrator shall
693 retain all member records for at least 5 years for use in
694 resolving any member conflicts. The state board, the third-party
695 administrator, or a provider is not required to produce
696 documentation or an audio recording to justify action taken with

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697 regard to a member if the action occurred 5 or more years before
698 the complaint is submitted to the state board. It is presumed
699 that all action taken 5 or more years before the complaint is
700 submitted was taken at the request of the member and with the
701 member's full knowledge and consent. To overcome this
702 presumption, the member must present documentary evidence or an
703 audio recording demonstrating otherwise.

704 (10) EDUCATION COMPONENT.—

705 (a) The state board, in coordination with the department,
706 shall provide for an education component for eligible employees
707 in a manner consistent with this subsection.

708 (b) The education component must provide system members
709 with impartial and balanced information about plan choices for
710 members initially enrolled before July 1, 2022. The education
711 component must involve multimedia formats. Program comparisons
712 must, to the greatest extent possible, be based upon the
713 retirement income that different retirement programs may provide
714 to the member. The state board shall monitor the performance of
715 the contract to ensure that the program is conducted in
716 accordance with the contract, applicable law, and the rules of
717 the state board.

718 (c) The state board, in coordination with the department,
719 shall provide for an initial and ongoing transfer education
720 component to provide system members initially enrolled before
721 July 1, 2022, with information necessary to make informed plan
722 choice decisions. The transfer education component must include,
723 but is not limited to, information on:

724 1. The amount of money available to a member to transfer to
725 the defined contribution program.

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726 2. The features of and differences between the pension plan
727 and the defined contribution program, both generally and
728 specifically, as those differences may affect the member.

729 3. The expected benefit available if the member were to
730 retire under each of the retirement programs, based on
731 appropriate alternative sets of assumptions.

732 4. The rate of return from investments in the defined
733 contribution program and the period of time over which such rate
734 of return must be achieved to equal or exceed the expected
735 monthly benefit payable to the member under the pension plan.

736 5. The historical rates of return for the investment
737 alternatives available in the defined contribution programs.

738 6. The benefits and historical rates of return on
739 investments available in a typical deferred compensation plan or
740 a typical plan under s. 403(b) of the Internal Revenue Code for
741 which the employee may be eligible.

742 7. The program choices available to employees of the State
743 University System and the comparative benefits of each available
744 program, if applicable.

745 8. Payout options available in each of the retirement
746 programs.

747 (d) An ongoing education and communication component must
748 provide eligible employees with information necessary to make
749 informed decisions about choices within their retirement system
750 and in preparation for retirement. The component must include,
751 but is not limited to, information concerning:

752 1. Rights and conditions of membership.

753 2. Benefit features within the program, options, and
754 effects of certain decisions.

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755 3. Coordination of contributions and benefits with a
756 deferred compensation plan under s. 457 or a plan under s.
757 403(b) of the Internal Revenue Code.

758 4. Significant program changes.

759 5. Contribution rates and program funding status.

760 6. Planning for retirement.

761 (e) Descriptive materials must be prepared under the
762 assumption that the employee is an unsophisticated investor, and
763 all materials used in the education component must be approved
764 by the state board prior to dissemination.

765 (f) The state board and the department shall also establish
766 a communication component to provide program information to
767 participating employers and the employers' personnel and payroll
768 officers and to explain their respective responsibilities in
769 conjunction with the retirement programs.

770 (g) Funding for education of new employees may reflect
771 administrative costs to the investment plan and the pension
772 plan.

773 (15) STATEMENT OF FIDUCIARY STANDARDS AND
774 RESPONSIBILITIES.—

775 (a) Investment of investment ~~defined contribution~~ plan
776 assets shall be made for the sole interest and exclusive purpose
777 of providing benefits to members and beneficiaries and defraying
778 reasonable expenses of administering the plan. The program's
779 assets shall be invested on behalf of the program members with
780 the care, skill, and diligence that a prudent person acting in a
781 like manner would undertake. The performance of the investment
782 duties set forth in this paragraph shall comply with the
783 fiduciary standards set forth in the Employee Retirement Income

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784 Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). In case
785 of conflict with other provisions of law authorizing
786 investments, the investment and fiduciary standards set forth in
787 this subsection shall prevail.

788 (b) If a member or beneficiary of the investment plan
789 exercises control over the assets in his or her account, as
790 determined by reference to regulations of the United States
791 Department of Labor under s. 404(c) of the Employee Retirement
792 Income Security Act of 1974 and all applicable laws governing
793 the operation of the program, a program fiduciary is not liable
794 for any loss to a member's or beneficiary's account which
795 results from the member's or beneficiary's exercise of control.

796 (c) Subparagraph (8)(b)2. and paragraph (b) incorporate the
797 federal law concept of participant control, established by
798 regulations of the United States Department of Labor under s.
799 404(c) of the Employee Retirement Income Security Act of 1974
800 (ERISA). The purpose of this paragraph is to assist employers
801 and the state board in maintaining compliance with s. 404(c),
802 while avoiding unnecessary costs and eroding member benefits
803 under the investment plan. Pursuant to 29 C.F.R. s. 2550.404a-
804 5(d)(4) ~~29 C.F.R. s. 2550.404e-1(b)(2)(i)(B)(1)(viii)~~, the state
805 board or its designated agents shall deliver to members of the
806 investment plan a copy of the prospectus most recently provided
807 to the plan, ~~and, pursuant to 29 C.F.R. s. 2550.404e-~~
808 ~~1(b)(2)(i)(B)(2)(ii)~~, ~~shall provide such members an opportunity~~
809 ~~to obtain this information~~, except that:

810 1. The requirement to deliver a prospectus shall be
811 satisfied by delivery of a fund profile or summary profile that
812 contains the information that would be included in a summary

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813 prospectus as described by Rule 498 under the Securities Act of
814 1933, 17 C.F.R. s. 230.498. If the transaction fees, expense
815 information or other information provided by a mutual fund in
816 the prospectus does not reflect terms negotiated by the state
817 board or its designated agents, the requirement is satisfied by
818 delivery of a separate document described by Rule 498
819 substituting accurate information; and

820 2. Delivery shall be effected if delivery is through
821 electronic means and the following standards are satisfied:

822 a. Electronically-delivered documents are prepared and
823 provided consistent with style, format, and content requirements
824 applicable to printed documents;

825 b. Each member is provided timely and adequate notice of
826 the documents that are to be delivered, and their significance,
827 and of the member's right to obtain a paper copy of such
828 documents free of charge;

829 c. Members have adequate access to the electronic
830 documents, at locations such as their worksites or public
831 facilities, and have the ability to convert the documents to
832 paper free of charge by the state board, and the board or its
833 designated agents take appropriate and reasonable measures to
834 ensure that the system for furnishing electronic documents
835 results in actual receipt. Members have provided consent to
836 receive information in electronic format, which consent may be
837 revoked; and

838 d. The state board, or its designated agent, actually
839 provides paper copies of the documents free of charge, upon
840 request.

841 Section 5. Section 121.74, Florida Statutes, is amended to

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842 read:

843 121.74 Administrative and educational expenses.—In addition
844 to contributions required to fund member accounts under s.
845 121.71, effective July 1, 2010, through June 30, 2014, employers
846 participating in the Florida Retirement System shall contribute
847 an employer assessment amount equal to 0.03 percent of the
848 payroll reported for each class or subclass of Florida
849 Retirement System membership. Effective July 1, 2014, the
850 employer assessment is 0.04 percent of the payroll reported for
851 each class or subclass of membership. Effective July 1, 2016,
852 the employer assessment is 0.06 percent of the payroll reported
853 for each class or subclass of membership. Effective July 1,
854 2022, the employer assessment is 0.07 percent of the payroll
855 reported for each class or subclass of membership. The amount
856 assessed shall be transferred by the division from the Florida
857 Retirement System Contributions Clearing Trust Fund to the State
858 Board of Administration's Administrative Trust Fund to offset
859 the costs of administering the investment plan and the costs of
860 providing educational services to members of the Florida
861 Retirement System. Approval of the trustees is required before
862 the expenditure of these funds. Payments for third-party
863 administrative or educational expenses shall be made only
864 pursuant to the terms of the approved contracts for such
865 services.

866 Section 6. Section 238.072, Florida Statutes, is amended to
867 read:

868 238.072 Special service provisions for extension
869 personnel.—All state and county cooperative extension personnel
870 holding appointments by the United States Department of

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871 Agriculture for extension work in agriculture and home economics
872 in this state who are joint representatives of the University of
873 Florida and the United States Department of Agriculture, as
874 provided in s. 121.051(8) ~~s. 121.051(7)~~, who are members of the
875 Teachers' Retirement System, chapter 238, and who are prohibited
876 from transferring to and participating in the Florida Retirement
877 System, chapter 121, may retire with full benefits upon
878 completion of 30 years of creditable service and shall be
879 considered to have attained normal retirement age under this
880 chapter, any law to the contrary notwithstanding. In order to
881 comply with ~~the provisions of~~ s. 14, Art. X of the State
882 Constitution, any liability accruing to the Florida Retirement
883 System Trust Fund as a result ~~of the provisions~~ of this section
884 shall be paid on an annual basis from the General Revenue Fund.

885 Section 7. Subsection (11) of section 413.051, Florida
886 Statutes, is amended to read:

887 413.051 Eligible blind persons; operation of vending
888 stands.—

889 (11) Effective July 1, 1996, blind licensees who remain
890 members of the Florida Retirement System pursuant to s.
891 121.051(7)(b)1. ~~s. 121.051(6)(b)1.~~ shall pay any unappropriated
892 retirement costs from their net profits or from program income.
893 ~~Within 30 days after the effective date of this act,~~ Each blind
894 licensee who is eligible to maintain membership in the Florida
895 Retirement System under s. 121.051(7)(b)1. ~~s. 121.051(6)(b)1.~~,
896 but who elects to withdraw from the system as provided in that
897 subparagraph ~~s. 121.051(6)(b)3.~~, must, on or before July 31,
898 1996, notify the Division of Blind Services and the Department
899 of Management Services in writing of his or her election to

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900 withdraw. Failure to timely notify the divisions shall be deemed
901 a decision to remain a compulsory member of the Florida
902 Retirement System. However, if, at any time after July 1, 1996,
903 sufficient funds are not paid by a blind licensee to cover the
904 required contribution to the Florida Retirement System, that
905 blind licensee shall become ineligible to participate ~~in the~~
906 ~~Florida Retirement System~~ on the last day of the first month for
907 which no contribution is made or the amount contributed is
908 insufficient to cover the required contribution. For any blind
909 licensee who becomes ineligible to participate in the Florida
910 Retirement System as described in this subsection, no creditable
911 service shall be earned under the Florida Retirement System for
912 any period following the month that retirement contributions
913 ceased to be reported. However, ~~any~~ such person may participate
914 in the Florida Retirement System in the future if employed by a
915 participating employer in a covered position.

916 Section 8. The Legislature finds that a proper and
917 legitimate state purpose is served when employees and retirees
918 of the state and its political subdivisions, and the dependents,
919 survivors, and beneficiaries of such employees and retirees, are
920 extended the basic protections afforded by governmental
921 retirement systems. These persons must be provided benefits that
922 are fair and adequate and that are managed, administered, and
923 funded in an actuarially sound manner, as required by s. 14,
924 Article X of the State Constitution and part VII of chapter 112,
925 Florida Statutes. Therefore, the Legislature determines and
926 declares that this act fulfills an important state interest.

927 Section 9. This act shall take effect July 1, 2021.