

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY
Senator Ring, Chair
Senator Siplin, Vice Chair

MEETING DATE: Thursday, February 24, 2011
TIME: 3:30 —5:30 p.m.
PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Ring, Chair; Senator Siplin, Vice Chair; Senators Benacquisto, Bogdanoff, Dean, Fasano, Flores, Garcia, Latvala, Margolis, Montford, Norman, and Wise

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 1128 Ring (Compare H 303)	Public Retirement Plans; Provides that a local governmental entity may not offer a defined benefit retirement plan to a plan member hired on or after a certain date. Provides that local plans must use at least 5 years to determine a plan member's average final compensation for calculating retirement benefits for members hired on or after a certain date. Directs the Department of Financial Services to rate the financial strength of local government defined benefit plans. Creates the Task Force on Public Employee Disability Presumptions, etc.	GO 02/22/2011 Workshop-Discussed GO 02/24/2011 BC
2	SB 1130 Ring (Compare H 303)	Retirement; Requires employee and employer contributions to the retirement system by a certain date. Clarifies that employer-paid employee contributions are subject to certain taxes. Amends provisions relating to the membership class of elected officers. Amends provisions relating to the optional retirement program for the State University System. Changes the name of the Public Employee Optional Retirement Program to the Florida Retirement System Investment Plan, etc.	GO 02/22/2011 Not Considered GO 02/24/2011 BC

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

BILL: SB 1128

INTRODUCER: Senator Ring

SUBJECT: Local Government Retirement Plans

DATE: February 19, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	Roberts	GO	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

The bill makes a number of changes affecting local government pension plans:

- A local government may not offer defined benefit retirement plans after July 1, 2011;
- Local government plans must use at least 5 years in determining an employee’s average final compensation;
- Plan sponsors must provide a death benefit to members killed in the line of duty;
- Firefighter and police pension plans are eligible to enter the Florida Retirement System only if the plan has no unfunded actuarial liabilities;
- Overtime compensation, unused leave, and other forms of compensation are removed from the definition of “compensation” or “salary” as used in firefighter and police pension plans, which would affect any calculation that uses those definitions;
- Premium tax income is required to be used for unfunded actuarial liabilities, before it can be used to fund extra benefits in firefighter and police pension plans;
- A Task Force on Public Employee Disability Presumptions is created to study and make recommendations on disabilities incurred in the line of duty;
- The Department of Financial Services is required to make recommendations regarding how local pension plan financial data should be reported; and
- The Department of Financial Services is required to create and provide standardized ratings for the financial strength of all local government defined benefit plans in Florida, to be provided on the department’s website.

This bill substantially amends sections 112.66, 121.051, 175.032, 175.351, 185.02, and 185.35, and creates unnumbered sections of the Florida Statutes.

II. Present Situation:

Local Retirement Systems and Plans

The Department of Management Services' Division of Retirement reports¹ that as of September 30, 2010, there are 489 defined benefit plans sponsored by 239 local governments. The vast majority of the plans, 483, are local government defined benefit systems that provide benefits to 67,724 retirees, with 107,007 active employees, and total plan assets of \$23.1 billion.² The average annual pension in these local plans is \$23,854, and the average annual required contribution rate as a percentage of payroll is 26.04%.

Collective Bargaining

Collective bargaining, pursuant to ch. 447, F.S., consists of a series of negotiations between a public employer's chief executive officer³ and the selected bargaining agent⁴ for an employee organization regarding the terms and conditions of employment.⁵ The purpose of collective bargaining is to encourage "cooperative relationships between the government and its employees," and provide public employees with a means to participate in the establishment of their employment conditions.⁶

Employees have the right to collectively bargain under article I, section 6 of the Florida Constitution.⁷ Statewide regulations for collective bargaining amongst public employees are addressed in part II of ch. 447, F.S.⁸ Section 447.309, F.S., requires any matter addressing a public employee's "wages, hours, and terms and conditions of employment" to be collectively bargained in good faith by the chief executive officer and the bargaining agent.

Any collective bargaining agreement that is reached must be placed in writing and signed by both the chief executive officer and the bargaining agent. The agreement is effective for a period of not more than three years, at which point the contract must be renegotiated.⁹

¹ Division of Management Services, *Florida Local Government Retirement Systems, 2010 Annual Report*, available online at: https://www.rol.frs.state.fl.us/forms/2010_Local_Report.pdf (last visited on February 13, 2011).

² The other 6 plans are school board early retirement programs that provide benefits to 1,570 retirees, with active plan membership of 9,157, and total plan assets of \$61.6 million.

³ Section 447.203(9), F.S., defines "chief executive officer" as the Governor for the state, and for all other public employees, the person selected or appointed that is "responsible to the legislative body of the public employer for the administration of the governmental affairs of the public employer."

⁴ The term "bargaining agent" is defined in s. 447.203(12), F.S., as the employee organization certified by the Public Employers Relations Commission (PERC) to represent the employees in the bargaining unit, as provided in s. 447.307, F.S., or its representative. Section 447.203(8) F.S., defines "bargaining unit" as a unit determined by either the PERC, through local regulations promulgated pursuant to s. 447.603, F.S., or by the public employer and the public employee organization, that is approved by the commission to be appropriate for the purposes of collective bargaining.

⁵ Section 447.203(14), F.S.

⁶ Section 447.201, F.S., *See also*, Public Employees Relations Commission, *A Practical Handbook on Florida's Public Employment Collective Bargaining Law*, 6 (2d ed. 2004).

⁷ FLA. CONST. art. I, § 6 (1968) (amendment to the "Right to Work" section: "[t]he right of employees, by and through a labor organization, to bargain collectively [which] shall not be denied or abridged").

⁸ *See* s. 447.201, F.S. The Public Employees Relations Act provided statutory implementation of the 1968 amendment to s. 6, Art. I of the State Constitution.

⁹ Section 447.309(5), F.S. ("Any collective bargaining agreement shall not provide for a term of existence of more than 3 years ...").

If the parties cannot reach a collective bargaining agreement after a reasonable period of negotiation, either party can declare a written impasse to the Public Employees Relations Commission.¹⁰

Actuarial Soundness and Minimum Funding Standards for Pensions

Article X, s. 14, of the State Constitution requires public retirement benefits to be funded on a sound actuarial basis:

SECTION 14: State retirement systems benefit changes.- A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.¹¹

The “Florida Protection of Public Employee Retirement Benefits Act” located in part VII of ch. 112, F.S., provides minimum operation and funding standards for public employee retirement plans. The legislative intent of this act is to “prohibit the use of any procedure, methodology, or assumptions, the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current tax payers.”¹²

The “Marvin B. Clayton Firefighters and Police Officers Pension Trust Fund” Acts

The Marvin B. Clayton Firefighters and Police Officers Pension Trust Fund Acts, located in chapters 175 and 185, Florida Statutes, declares a legitimate state purpose to provide a uniform retirement system for the benefit of firefighters and municipal police officers, in implementing the provisions of s. 14, Art. X of the State Constitution. Pursuant to ss. 175.021(1) and 185.01(1), F.S., all municipal and special district firefighters, and all municipal police officers retirement trust fund systems or plans must be managed, administered, operated, and funded to maximize the protection of firefighters’ and police officers’ pension trust funds.¹³ The Division of Retirement within the Department of Management Services is the primary state agency responsible for administrative oversight, including monitoring for actuarial soundness, of the funds in the Municipal Police Officers’ Retirement Trust Fund and the Firefighters’ Pension Trust Fund.¹⁴

Firefighters Pension Trust Fund - The Firefighters Pension Trust Fund is funded through an excise tax on property insurance policies that amounts up to 1.85 percent of the gross amount of receipts on premiums for policies issued within the municipality boundary or the legally defined boundary of a special fire control district.¹⁵ This excise tax is payable to the Department of Revenue on March 1 of each year, and the net proceeds are transferred to the appropriate fund at

¹⁰ The Public Employees Relations Commission (PERC) is an independent agency that was created pursuant to s. 447.205, F.S., to assist in resolving disputes between public employers and their employees.

¹¹ Art. X, section 14 of the Florida Constitution.

¹² Section 112.61, F.S.

¹³ See ss. 175.021(1) and 185.01(1), F.S., (2006).

¹⁴ See ss. 175.121 and 185.10, F.S.

¹⁵ Section 175.101(1), F.S.

the Division of Retirement.¹⁶ In 2008, premium tax distributions to cities and special fire control districts from the Firefighters Pension Trust Fund amounted to \$70.5 million.¹⁷ The 2009 Legislature clarified the that boundaries of a special fire control district for purposes of the 1.85 percent excise tax shall “include an area that has been annexed until the completion of the 4-year period provided for in s. 171.093(4), or if a special fire control district is providing services under an interlocal agreement executed in accordance with s. 171.093(3)”¹⁸.

Municipal Police Officers Retirement Trust Fund - The Police Officers Retirement Trust Fund is funded through an excise tax on casualty insurance policies that amounts up to .85 percent of the gross receipts on premiums for policies issued within the municipality boundary.¹⁹ This excise tax is also payable to the Department of Revenue and the net proceeds are transferred to the appropriate fund at the Division of Retirement. In 2009, premium tax distributions to municipalities from the Police Officers Retirement Trust Fund amounted to \$59.4 million.²⁰

Additional revenues for both funds come from a five percent employee contribution through salary, employer contributions, and fines for employees violating board rules and regulations, and other sources.²¹

Insurance Premium Tax

Each qualified insurer must pay an annual tax on specified insurance premiums received during the preceding calendar year.²² These taxes must be paid to the Department of Revenue on March 1 of each year in an amount equal to 1.75 percent of the gross amount of receipts on the specified policies and a 1 percent on annuity policies or contracts, to be distributed into the General Revenue Fund. Pursuant to s. 624.51055, F.S., the insurer is allowed to take credits for the municipal taxes imposed on property and casualty insurance policies used to fund firefighter and police pension trust funds.²³ Each time a municipality that is currently not imposing the tax enacts an ordinance to impose the tax, a credit is taken by the insurer against the tax paid to the department for deposit into the General Revenue Fund.²⁴

Board of Trustees

Firefighters and Police Officers Retirement Trust Funds are administered by a local governing board of trustees that is created in participating cities and special fire control districts and subject

¹⁶ Section 175.101(3), F.S.

¹⁷ Division of Management Services, *Municipal Police Officers and Firefighters' Retirement Forms: Facts and Figures Premium Tax Distribution History Fire*, available online at: https://www.rol.frs.state.fl.us/forms/Police_2009.pdf (last visited on February 10, 2011).

¹⁸ Chapter 2009-97, s. 6, Laws of Florida (L.O.F.).

¹⁹ Section 185.08, F.S.

²⁰ Division of Management Services, *Municipal Police Officers and Firefighters' Retirement Forms: Facts and Figures Premium Tax Distribution History Police*, available online at: https://www.rol.frs.state.fl.us/forms/Police_2009.pdf (last visited on February 10, 2011).

²¹ See ss. 175.091(1)(a)-(g) and 185.07(1)(a)-(g), F.S.

²² Section 624.509(1), F.S.

²³ Section 624.51055, F.S., (“There is allowed a credit of 100 percent of ... However, such credit may not exceed 75 percent of the tax due under s. 624.509(1) after deducting such tax deductions for ... credits for taxes paid under ss. 175.101 and 185.08 ...”).

²⁴ According to the Department of Management Services the state premium tax distribution made during 2009, amount to approximately \$131,113,000.

to the regulatory oversight of the Division of Retirement.²⁵ The membership of the board consists of five members: two residents, two police officers or firefighters selected through the active membership, and one member selected by the other four members and approved by the appropriate governing body pro forma that are subject to two-year terms. The chair and secretary of the board are elected by a majority vote.²⁶

The general powers and duties of the board of trustees are:

- To invest and reinvest pension trust fund assets in amounts sufficient to provide entitled benefits and initial and subsequent premiums;
- To invest and reinvest pension trust fund assets into:
 - Annuities and life insurance contracts;
 - Time or savings accounts of specified banks and financial institutions;
 - Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States;
 - Bonds issued by the State of Israel;
 - Bonds (which must hold a rating in one of the three highest classifications by a major rating service), stocks, and other indebtedness issued or guaranteed by a United States Corporation; and
 - Foreign securities not to exceed 10 percent of plan assets;
- To issue drafts upon the pension trust fund;
- To convert fund securities into cash; and
- To keep record on all receipts and disbursements and the board's acts and proceedings.²⁷

In addition to these duties, the board must hold quarterly meetings and retain a professional consultant at least once every three years to evaluate the performance of any existing money manager.²⁸

Chapters 175 and 185 Plan Provisions

Sections 175.041(3) and 185.03(2), F.S., each provide that the provisions of the respective chapters do not apply to any governmental entity whose firefighters and/or police officers are eligible to participate in the FRS. Exceptions are provided for those cities and special districts that opted out of the FRS and established a chapter plan for all police officers and firefighters hired after January 1, 1996, and for a city or special district subject to a transfer, consolidation, or merger, and whose fire and law enforcement services are provided by the county in which the city or special districts are located.

Sections 175.411 and 185.60, F.S., provide that cities and special districts who opt out of a local or chapter plan but do not terminate the plan, are prohibited from receiving future insurance premium tax money used to fund the pension plans. Premium tax funds previously received must be used to fund existing benefits for vested firefighters or police officers, and the accrued benefits of such vested firefighters or police officers may not be reduced. Annual reports to the

²⁵ See ss. 175.061 and 185.05, F.S.

²⁶ The secretary of the board shall keep a record of all persons receiving retirement payments under ch. 175 and ch. 185. See ss. 175.071(4) and 185.06(3), F.S., respectively.

²⁷ See ss. 175.07(1)(a)-(e) and 185.06(1)-(f), F.S., (note s. 185.06(1)(d), F.S., provides that the board of trustees may also decide all claims to relief for municipal police pension plans).

²⁸ See ss. 175.061(3), 175.071(6)(a), 185.05(3), and 185.06(5), F.S.

Municipal Police Officers' and Firefighters' Pension Office in the Division of Retirement at the Department of Management Services are required. Sections 175.361 and 185.37, F.S., provide requirements for distribution of plan assets when a city or a special district does terminate a chapter or local law pension plan.

Sections 175.371 and 185.38, F.S., provide that when every active firefighter or police officer in a chapter or local law pension plan elects to transfer to another state retirement system, the pension plan must be terminated and the assets must be distributed in accordance with ss. 175.361 and 185.37, F.S. If some participants elect to transfer to another state retirement system and others elect to remain in the chapter or local law plan, the chapter or local law plan will continue to receive insurance premium taxes until the plan is fully funded meaning that the present value of all benefits, accrued and projected, is less than the available assets and the present value of future member contributions and future plan sponsor contributions on an actuarial entry age cost funding basis.

Disability Presumptions

General Provisions - Section 112.18(1)(a), F.S., provides that any condition or impairment of health of any Florida state, municipal, county, port authority, special tax district, or fire control district firefighter or any law enforcement officer, correctional officer, or correctional probation officer caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death will be presumed to have been accidental and to have been suffered in the line of duty unless the contrary be shown by competent evidence. However, any such firefighter or law enforcement officer must have successfully passed a physical examination upon entering into any service as a firefighter or law enforcement officer, which examination failed to reveal any evidence of any such condition. The presumption does not apply to benefits payable under or granted in a policy of life insurance or disability insurance, unless the insurer and insured have negotiated for such additional benefits to be included in the policy contract.

The presumption for workers' compensation claims is different. For any workers' compensation claim filed under this section and chapter 440 occurring on or after July 1, 2010, a law enforcement officer, correctional officer, or correctional probation officer suffering from tuberculosis, heart disease, or hypertension is presumed not to have incurred disease in the line of duty as provided in this section if the law enforcement officer, correctional officer, or correctional probation officer:

- Departed in a material fashion from the prescribed course of treatment of his or her personal physician and the departure is demonstrated to have resulted in a significant aggravation of the tuberculosis, heart disease, or hypertension resulting in disability or increasing the disability or need for medical treatment; or
- Was previously compensated pursuant to this section and chapter 440 for tuberculosis, heart disease, or hypertension and thereafter sustains and reports a new compensable workers' compensation claim under this section and chapter 440, and the law enforcement officer, correctional officer, or correctional probation officer has departed in a material fashion from the prescribed course of treatment of an authorized physician for the preexisting workers' compensation claim and the departure is demonstrated to have resulted in a significant aggravation of the tuberculosis, heart disease, or hypertension resulting in disability or increasing the disability or need for medical treatment.

Disability of Firefighters Suffered in Line of Duty – Pursuant to s. 175.231, F.S., for any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this ch. 175, F.S., any condition or impairment of health of a firefighter caused by tuberculosis, hypertension, or heart disease resulting in total or partial disability or death shall be presumed to have been accidental and suffered in the line of duty unless the contrary is shown by competent evidence, provided that such firefighter shall have successfully passed a physical examination before entering into such service, which examination failed to reveal any evidence of such condition. This section is applicable to all firefighters only with reference to pension and retirement benefits under ch. 175, F.S.

Disability of Police Officers Suffered in Line of Duty - Pursuant to s. 185.34, F.S., for any municipality, chapter plan, local law municipality, or local law plan ch. 185, F.S., any condition or impairment of health of any and all police officers employed in the state caused by tuberculosis, hypertension, heart disease, or hardening of the arteries, resulting in total or partial disability or death, shall be presumed to be accidental and suffered in line of duty unless the contrary be shown by competent evidence. Any condition or impairment of health caused directly or proximately by exposure, which exposure occurred in the active performance of duty at some definite time or place without willful negligence on the part of the police officer, resulting in total or partial disability, shall be presumed to be accidental and suffered in the line of duty, provided that such police officer shall have successfully passed a physical examination upon entering such service, which physical examination including electrocardiogram failed to reveal any evidence of such condition, and, further, that such presumption shall not apply to benefits payable under or granted in a policy of life insurance or disability insurance. This section is applicable to all police officers only with reference to pension and retirement benefits under ch. 185, F.S.

Financial Reporting Requirements for Local Governments

Section 218.39, F.S., specifies the requirements for annual financial audit reports for local governments. If, by the first day in any fiscal year, a local governmental entity, district school board, charter school, or charter technical career center has not been notified that a financial audit for that fiscal year will be performed by the Auditor General, each of the following entities shall have an annual financial audit of its accounts and records completed within 12 months after the end of its fiscal year by an independent certified public accountant retained by it and paid from its public funds:

- Each county;
- Any municipality with revenues or the total of expenditures and expenses in excess of \$250,000;
- Any special district with revenues or the total of expenditures and expenses in excess of \$100,000;
- Each district school board;
- Each charter school;
- Each charter technical center;
- Each municipality with revenues or the total of expenditures and expenses between \$100,000 and \$250,000 that has not been subject to a financial audit pursuant to this subsection for the 2 preceding fiscal years.

- Each special district with revenues or the total of expenditures and expenses between \$50,000 and \$100,000 that has not been subject to a financial audit pursuant to this subsection for the 2 preceding fiscal years.

All audits conducted in accordance with this section must be conducted in accordance with the rules of the Auditor General. All audit reports and the officer's written statement of explanation or rebuttal must be submitted to the Auditor General within 45 days after delivery of the audit report to the entity's governing body, but no later than 12 months after the end of the fiscal year.

Section 218.32, F.S., provides that each local governmental entity that is determined to be a reporting entity, as defined by generally accepted accounting principles, and each independent special district must submit to the Department of Financial Services (DFS) a copy of its annual financial report for the previous fiscal year in a format prescribed by DFS. Each local governmental entity that is required to provide for an audit in accordance with s. 218.39(1), F.S., must submit the annual financial report with the audit report. A copy of the audit report and annual financial report must be submitted to the department within 45 days after the completion of the audit report but no later than 12 months after the end of the fiscal year. Each local governmental entity that is not required to provide for an audit report in accordance with s. 218.39, F.S., must submit the annual financial report to DFS no later than April 30 of each year. DFS must consult with the Auditor General in the development of the format of annual financial reports submitted pursuant to this paragraph. DFS must forward the financial information contained within these entities' annual financial reports to the Auditor General in electronic form.

Financial Reporting Requirements for Local Pension Plans

Sections 175.261 and 185.221, F.S., specify the financial reporting requirements for firefighter and municipal police pensions, respectively, which generally require an annual independent audit, and an actuarial valuation every three years. The reports must be submitted to DMS' Division of Retirement, which issues an annual report to the Legislature based upon the reporting from the local plans.

III. Effect of Proposed Changes:

Local Plans

Section 1 amends s. 112.66, F.S., to prohibit a plan sponsor from offering or providing membership in a defined benefit retirement system to an employee hired on or after July 1, 2011. For those employees whose terms and conditions of employment are collectively bargained, this provision applies to the first agreement negotiated on or after July 1, 2011.

The bill requires local plans to use a minimum of five years when determining an employee's average final compensation. For those employees whose terms and conditions of employment are collectively bargained, this provision applies to the first agreement negotiated on or after July 1, 2011.

The bill requires local plans that local plans provide death benefits for members killed in the line of duty with minimum standards:

- The surviving spouse of a member killed in the line of duty may receive a monthly pension equal to one-half of the monthly salary being received by the member at the time of death for the remainder of the surviving spouse's lifetime.
- If the surviving spouse of a member killed in the line of duty dies, the monthly payments must be paid for the use and benefit of the member's children under 18 years of age and unmarried until the 18th birthday of the member's youngest unmarried child.
- If a member killed in the line of duty leaves no surviving spouse but is survived by children under 18 years of age, the benefits must be paid for the use of the member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest unmarried child.

This death benefits provision does not abrogate other applicable provisions of state or federal law providing death benefits.

Florida Retirement System

Section 2 amends s. 121.051(2), F.S., by adding a new paragraph providing that firefighters' or police officers' pension or retirement plans established in Ch. 175 or 185 are eligible for membership in the FRS at the sole discretion of DMS, and only if the plans have no unfunded liabilities.

Firefighter Pensions

Section 3 amends s. 175.032, F.S., to provide that overtime compensation, unused leave, or any other form of compensation beyond base hourly or annual salary may not be included when calculating the member's compensation or salary.

Section 4 amends s. 175.351, F.S., to specify that premium tax income must first be used to pay down any unfunded actuarial liabilities in a pension plan, before paying for other benefits.

Municipal Police Pensions

Section 5 amends s. s. 185.02, F.S., to provide that overtime compensation, unused leave, or any other form of compensation beyond base hourly or annual salary may not be included when calculating the member's compensation or salary. In implementing this provision, the bill also deletes a provision that allowed up to 300 overtime hours to be included in a retirement benefit calculation.

Section 6 amends s. 185.35, F.S., to specify that premium tax income must first be used to pay down any unfunded actuarial liabilities in a pension plan, before paying for extra benefits.

Financial Rating of Local Plans

Section 7 requires the Department of Financial Services to create and provide standardized ratings for the financial strength of all local government defined benefit plans in Florida, to be provided on the department's website. The ratings must include the following factors:

- Current and future unfunded liabilities;
- The net asset value, managed returns, and funded ratio;
- Metrics related to the sustainability of the plan, including, but not limited to the percentage that the annual contribution is of the participating employee payroll;
- Municipal bond ratings for the local government, if applicable;
- Whether the local government has reduced contribution rates to the plan when the plan has an actuarial surplus; and
- Whether the local government uses any actuarial surplus in the plan for obligations outside the plan.

The department may obtain the data needed to formulate the ratings from all relevant sources, which must cooperate in furnishing the data.

Task Force on Public Employee Disability Presumptions

Section 8 creates the Task Force on Public Employee Disability Presumptions for the purpose of developing findings and issuing recommendations on the disability presumptions applicable to firefighters and police officers employed by the state and local governments.²⁹ The task force consists of nine members to be appointed by July 15, 2011, as follows:

- An attorney in private practice appointed by the President of the Senate;
- A representative of organized labor appointed by the President of the Senate;
- A representative from the Florida League of Cities appointed by the President of the Senate;
- An attorney in private practice appointed by the Speaker of the House;
- A representative of organized labor appointed by the Speaker of the House;
- A representative from the Florida League of Cities appointed by the Speaker of the House;
- A representative from the Auditor General;
- A representative from DMS' Division of Retirement; and
- A representative from the Department of Financial Services.

The task force must address, at a minimum, the following issues:

- Data related to the operation of the statutory disability presumptions;
- How disability presumptions are handled in other states; and
- Proposals for changes to the existing disability presumptions.

By January 1, 2012, the task force must submit, a report to the Legislature and the Governor on recommendations for legislative action to be taken.

Local Government Pension Plan Transparency

Section 9 requires the Department of Financial Services to consider issues related to the transparency of the financial condition of local government pension plans, including:

- Whether and what kinds of local pension plan data should be included in the financial audit reports required under s. 218.39, F.S;

²⁹ Sections 112.18, 185.34, and 175.231, Florida Statutes.

- Whether the reporting requirements related to local police and firefighter pension plans should be supplemented with other types of financial data in order to give a more complete and transparent picture of a local government's financial solvency;
- Proposals for a uniform format for providing pension data, including standard terminology and the specific types of data which should be provided, including funding ratios, and whether contributions are sufficient to fund actuarial liabilities;
- Whether to require local governments to provide pension financial data on local public websites;
- Other related issues, including insurance benefits, health care benefits, postemployment plan benefits; and
- Proposals related to the composition of local pension plan boards.

The department must report its recommendations to the Legislature and Governor by December 1, 2011.

Important State Interest

Section 10 provides that the Legislature determines that the bill fulfills an important state interest as related to public pension plans.

Effective Date

Section 11 provides that the bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

To the extent this bill would require a local government to expend funds to comply with its terms, the provisions of section 18(a) of article VII of the State Constitution may apply. If those provisions do apply, in order for the law to be binding upon the cities and counties, the Legislature must find that the law fulfills an important state interest (done in section 10 of the bill) and one of the following relevant exceptions must apply:

- a. funds estimated at the time of enactment to be sufficient to fund such expenditures are appropriated;
- b. Counties and cities are authorized to enact a funding source not available for such local government on February 1, 1989, that can be used to generate the amount of funds necessary to fund the expenditures;
- c. the expenditure is required to comply with a law that applies to all persons similarly situated; or
- d. the law must be approved by two-thirds of the membership of each house of the Legislature.

It is unclear whether this constitutional provision applies, given that some of the provisions in the bill should reduce long term costs to local governments, while the provision requiring a death benefit could increase costs. The issue is further compounded by the fact that premium tax income pays for at least some of the retirement benefits in plans created pursuant to Chapters 175 and 185, F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Some of the provisions of the bill may help reduce local plans' long term unfunded liabilities. The provision requiring a death benefit requires local governments to fund the benefit. Any costs or savings caused by the bill are indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 57 through 63 may not be necessary, since the effect of another provision in the bill is to prohibit used of defined benefit plans after July 1, 2011.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Governmental Oversight and Accountability
(Ring) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (11) through (16) are added to
section 112.66, Florida Statutes, to read:

112.66 General provisions.—The following general provisions
relating to the operation and administration of any retirement
system or plan covered by this part shall be applicable:

(11) A plan sponsor may not offer or provide membership in
a defined benefit retirement system or plan to an employee hired
on or after July 1, 2011. For those members whose terms and



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13 conditions of employment are collectively bargained, this
14 subsection is effective for the first agreement negotiated on or
15 after July 1, 2011. Compliance with this subsection does not
16 disqualify a plan or plan sponsor from receiving premium tax
17 revenues pursuant to chapters 175 and 185.

18 (12) Effective July 1, 2011, for purposes of calculating
19 retirement benefits, a pension system or plan sponsored by a
20 local government may not include any overtime, unused leave, or
21 any other form of compensation beyond base hourly or annual
22 salary in calculating a member's compensation or salary. For
23 those members whose terms and conditions of employment are
24 collectively bargained, this subsection is effective for the
25 first agreement negotiated on or after July 1, 2011.

26 (13) An actuarial or cash surplus in any system or plan may
27 not be used for any expenses outside the plan.

28 (14) A plan or system may not temporarily reduce
29 contributions required to fund normal cost.

30 (15) For each member hired on or after July 1, 2011, the
31 local government shall provide a disability retirement benefit
32 that meets the following minimum standards:

33 (a) A member who becomes totally and permanently disabled,
34 as defined in s. 121.091(4) (b), after completing a specified
35 amount of service as determined by the local government, is
36 entitled to a monthly disability benefit.

37 (b) The local government must specify what constitutes
38 permanent and total disability, how to determine proof of
39 disability, provisions related to recovery from disability, and
40 other necessary components of a disability retirement program.

41 (16) For each member who is a firefighter, police officer,



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42 or correctional officer hired on or after July 1, 2011, local
43 government shall provide a death benefit entitlement and
44 payments that meet the following minimum standards:

45 (a) The surviving spouse of a member killed in the line of
46 duty may receive a monthly pension equal to one-half of the
47 monthly salary being received by the member at the time of death
48 for the remainder of the surviving spouse's life.

49 (b) If the surviving spouse of a member killed in the line
50 of duty dies, the monthly payments that would have been payable
51 to the surviving spouse had such surviving spouse lived shall be
52 paid for the use and benefit of the member's children under 18
53 years of age and unmarried until the 18th birthday of the
54 member's youngest unmarried child.

55 (c) If a member killed in the line of duty leaves no
56 surviving spouse but is survived by children under 18 years of
57 age, the benefits normally payable to a surviving spouse shall
58 be paid for the use and benefit of the member's child or
59 children under 18 years of age and unmarried until the 18th
60 birthday of the member's youngest unmarried child.

61
62 This subsection does not abrogate other applicable provisions of
63 state or federal law providing death benefits.

64 Section 2. Paragraph (g) is added to subsection (2) of
65 section 121.051, Florida Statutes, to read:

66 121.051 Participation in the system.—

67 (2) OPTIONAL PARTICIPATION.—

68 (g) A local government retirement system or plan, including
69 a firefighters' pension plan or a municipal police officers'
70 retirement plan established in accordance with chapter 175 or



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71 chapter 185, is eligible for membership under this chapter if
72 the plan has no unfunded actuarial liabilities.

73 Section 3. Subsection (3) of section 175.032, Florida
74 Statutes, is amended to read:

75 175.032 Definitions.—For any municipality, special fire
76 control district, chapter plan, local law municipality, local
77 law special fire control district, or local law plan under this
78 chapter, the following words and phrases have the following
79 meanings:

80 (3) "Compensation" or "salary" for service earned and
81 collective bargaining agreements in place before July 1, 2011,
82 means the fixed monthly remuneration paid a firefighter. If
83 ~~where, as in the case of a volunteer firefighter,~~ remuneration
84 is based on actual services rendered, as in the case of a
85 volunteer firefighter, the term means the total cash
86 remuneration received yearly for such services, prorated on a
87 monthly basis. For service earned and collective bargaining
88 agreements entered into on or after July 1, 2011, overtime
89 compensation, unused leave, or any other form of compensation
90 beyond base hourly or annual salary may not be included when
91 calculating a member's compensation or salary.

92 ~~(a) A retirement trust fund or plan may use a definition of~~
93 ~~salary other than the definition in this subsection but only if~~
94 ~~the monthly retirement income payable to each firefighter~~
95 ~~covered by the retirement trust fund or plan, as determined~~
96 ~~under s. 175.162(2) (a) and using such other definition, equals~~
97 ~~or exceeds the monthly retirement income that would be payable~~
98 ~~to each firefighter if his or her monthly retirement income were~~
99 ~~determined under s. 175.162(2) (a) and using the definition in~~



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100 ~~this subsection.~~

101 (a) ~~(b)~~ Any retirement trust fund or plan that ~~which now or~~
102 ~~hereafter~~ meets the requirements of this chapter does ~~shall~~ not,
103 solely by virtue of this subsection, reduce or diminish the
104 monthly retirement income otherwise payable to each firefighter
105 covered by the retirement trust fund or plan.

106 (b) ~~(e)~~ The member's compensation or salary contributed as
107 employee-elective salary reductions or deferrals to any salary
108 reduction, deferred compensation, or tax-sheltered annuity
109 program authorized under the Internal Revenue Code shall be
110 deemed to be the compensation or salary the member would receive
111 if he or she were not participating in such program and ~~shall be~~
112 treated as compensation for retirement purposes under this
113 chapter.

114 (c) ~~(d)~~ For any person who first becomes a member in any
115 plan year beginning on or after January 1, 1996, compensation
116 for that ~~any~~ plan year may ~~shall~~ not include any amounts in
117 excess of the Internal Revenue Code s. 401(a)(17) limitation,
118 ~~(as amended by the Omnibus Budget Reconciliation Act of 1993),~~
119 which limitation of \$150,000 shall be adjusted as required by
120 federal law for qualified government plans and shall be further
121 adjusted for changes in the cost of living in the manner
122 provided by Internal Revenue Code s. 401(a)(17)(B). For any
123 person who first became a member before ~~prior to~~ the first plan
124 year beginning on or after January 1, 1996, the limitation on
125 compensation may ~~shall be~~ not be less than the maximum
126 compensation amount that was allowed to be taken into account
127 under the plan ~~as~~ in effect on July 1, 1993, which limitation
128 shall be adjusted for changes in the cost of living since 1989



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129 in the manner provided by Internal Revenue Code s.
130 401(a)(17)(1991).

131 Section 4. Section 175.351, Florida Statutes, is amended to
132 read:

133 175.351 Municipalities and special fire control districts
134 having their own pension plans for firefighters.—For any
135 municipality, special fire control district, local law
136 municipality, local law special fire control district, or local
137 law plan under this chapter, in order for municipalities and
138 special fire control districts with their own pension plans for
139 firefighters, or for firefighters and police officers if, where
140 included, to participate in the distribution of the tax fund
141 established pursuant to s. 175.101, local law plans must meet
142 the minimum benefits and minimum standards set forth in this
143 chapter.

144 (1) ~~PREMIUM TAX INCOME.~~—If a municipality has a pension
145 plan for firefighters, or a pension plan for firefighters and
146 police officers if, where included, which in the opinion of the
147 division meets the minimum benefits and minimum standards set
148 forth in this chapter, all premium tax revenues received by the
149 municipality in excess of the adjusted base amount and all
150 accumulated excess premium tax revenues held in reserve must
151 first be used to pay the unfunded actuarial accrued liabilities
152 of the plan. After all unfunded actuarial accrued liabilities
153 are paid, the board of trustees of the pension plan, as approved
154 by a majority of firefighters of the municipality, may:

155 (a) Place the income from the premium tax in s. 175.101 in
156 such pension plan for the sole and exclusive use of its
157 firefighters, or for firefighters and police officers if, where



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158 included, where it shall become an integral part of that pension
159 plan and ~~shall be~~ used to pay extra benefits to the firefighters
160 included in that pension plan; or

161 (b) Place the income from the premium tax in s. 175.101 in
162 a separate supplemental plan to pay extra benefits to
163 firefighters, or to firefighters and police officers if ~~where~~
164 included, participating in such separate supplemental plan.

165 (2) The premium tax provided by this chapter shall in all
166 cases be used in its entirety to provide retirement ~~extra~~
167 benefits to firefighters, or to firefighters and police officers
168 if, ~~where~~ included. However, local law plans in effect on
169 October 1, 1998, must ~~shall be required to~~ comply with the
170 minimum benefit provisions of this chapter only to the extent
171 that additional premium tax revenues become available to
172 incrementally fund the cost of such compliance as provided in s.
173 175.162(2) (a). If ~~When~~ a plan is in compliance with such minimum
174 benefit provisions, as subsequent additional premium tax
175 revenues become available, they must ~~shall~~ be used to provide
176 extra benefits, except as provided in subsection (1). For the
177 purpose of this chapter, "additional premium tax revenues" means
178 revenues received by a municipality or special fire control
179 district pursuant to s. 175.121 which exceed that amount
180 received for calendar year 1997, and the term "extra benefits"
181 means benefits in addition to or greater than those provided to
182 general employees of the municipality and in addition to those
183 in existence for firefighters on March 12, 1999. Local law plans
184 created by special act before May 23, 1939, shall be deemed to
185 comply with this chapter.

186 ~~(3)-(2) A ADOPTION OR REVISION OF A LOCAL LAW PLAN. No~~



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187 retirement plan or amendment to a retirement plan may not ~~shall~~
188 be proposed for adoption unless the proposed plan or amendment
189 contains an actuarial estimate of the costs involved. ~~No~~ Such
190 proposed plan or proposed plan change may not ~~shall~~ be adopted
191 without the approval of the municipality, special fire control
192 district, or, where permitted, the Legislature. Copies of the
193 proposed plan or proposed plan change and the actuarial impact
194 statement of the proposed plan or proposed plan change shall be
195 furnished to the division before ~~prior to~~ the last public
196 hearing thereon. Such statement must ~~shall~~ also indicate whether
197 the proposed plan or proposed plan change is in compliance with
198 s. 14, Art. X of the State Constitution and those provisions of
199 part VII of chapter 112 which are not expressly provided in this
200 chapter. Notwithstanding any other provision, only those local
201 law plans created by special act of legislation before ~~prior to~~
202 May 23, 1939, are ~~shall be~~ deemed to meet the minimum benefits
203 and minimum standards only in this chapter.

204 (4) ~~(3)~~ Notwithstanding any other provision, with respect to
205 any supplemental plan municipality:

206 (a) ~~Section 175.032(3)(a) shall not apply, and~~ A local law
207 plan and a supplemental plan may continue to use their
208 definition of compensation or salary in existence on the
209 effective date of this act.

210 (b) Section 175.061(1)(b) does ~~shall~~ not apply, and a local
211 law plan and a supplemental plan shall continue to be
212 administered by a board or boards of trustees numbered,
213 constituted, and selected as the board or boards were numbered,
214 constituted, and selected on December 1, 2000.

215 (c) The election set forth in paragraph (1)(b) is ~~shall be~~



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216 deemed to have been made.

217 ~~(5)~~~~(4)~~ The retirement plan setting forth the benefits and
218 the trust agreement, if any, covering the duties and
219 responsibilities of the trustees and the regulations of the
220 investment of funds must be in writing, and copies ~~thereof must~~
221 ~~be~~ made available to the participants and to the general public.

222 Section 5. Subsection (4) of section 185.02, Florida
223 Statutes, is amended to read:

224 185.02 Definitions.—For any municipality, chapter plan,
225 local law municipality, or local law plan under this chapter,
226 the following words and phrases as used in this chapter shall
227 have the following meanings, unless a different meaning is
228 plainly required by the context:

229 (4) "Compensation" or "salary" for service earned and
230 collective bargaining agreements in place before July 1, 2011,
231 means the total cash remuneration including "overtime" paid by
232 the primary employer to a police officer for services rendered,
233 but not including any payments for extra duty or a special
234 detail work performed on behalf of a second party employer. For
235 service earned and collective bargaining agreements in place
236 before July 1, 2011 ~~However,~~ a local law plan may limit the
237 amount of overtime payments which can be used for retirement
238 benefit calculation purposes; however, ~~but in no event shall~~
239 such overtime limit may not be less than 300 hours per officer
240 per calendar year. For service earned and collective bargaining
241 agreements entered into on or after July 1, 2011, total cash
242 remuneration may not include payments for extra duty or special
243 detail work performed on behalf of a second party employer, or
244 any overtime, unused leave, or other compensation beyond base



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245 hourly or annual salary.

246 (a) Any retirement trust fund or plan that ~~which now or~~
247 ~~hereafter~~ meets the requirements of this chapter does ~~shall~~ not,
248 solely by virtue of this subsection, reduce or diminish the
249 monthly retirement income otherwise payable to each police
250 officer covered by the retirement trust fund or plan.

251 (b) The member's compensation or salary contributed as
252 employee-elective salary reductions or deferrals to any salary
253 reduction, deferred compensation, or tax-sheltered annuity
254 program authorized under the Internal Revenue Code shall be
255 deemed to be the compensation or salary the member would receive
256 if he or she were not participating in such program and ~~shall be~~
257 treated as compensation for retirement purposes under this
258 chapter.

259 (c) For any person who first becomes a member in any plan
260 year beginning on or after January 1, 1996, compensation for
261 that any plan year may ~~shall~~ not include any amounts in excess
262 of the Internal Revenue Code s. 401(a)(17) limitation, ~~(as~~
263 ~~amended by the Omnibus Budget Reconciliation Act of 1993),~~ which
264 limitation of \$150,000 shall be adjusted as required by federal
265 law for qualified government plans and shall be further adjusted
266 for changes in the cost of living in the manner provided by
267 Internal Revenue Code s. 401(a)(17)(B). For any person who first
268 became a member before ~~prior to~~ the first plan year beginning on
269 or after January 1, 1996, the limitation on compensation may
270 ~~shall be~~ not be less than the maximum compensation amount that
271 was allowed to be taken into account under the plan as in effect
272 on July 1, 1993, which limitation shall be adjusted for changes
273 in the cost of living since 1989 in the manner provided by



274 Internal Revenue Code s. 401(a)(17)(1991).

275 Section 6. Section 185.35, Florida Statutes, is amended to
276 read:

277 185.35 Municipalities having their own pension plans for
278 police officers.—For any municipality, chapter plan, local law
279 municipality, or local law plan under this chapter, in order for
280 municipalities with their own pension plans for police officers,
281 or for police officers and firefighters if where included, to
282 participate in the distribution of the tax fund established
283 pursuant to s. 185.08, local law plans must meet the minimum
284 benefits and minimum standards set forth in this chapter:

285 (1) ~~PREMIUM TAX INCOME.~~—If a municipality has a pension
286 plan for police officers, or for police officers and
287 firefighters if where included, which, in the opinion of the
288 division, meets the minimum benefits and minimum standards set
289 forth in this chapter, all premium tax revenues received by the
290 municipality in excess of the adjusted base amount and all
291 accumulated excess premium tax revenues held in reserve, must
292 first be used to pay off the unfunded actuarial accrued
293 liabilities of the plan. After all unfunded actuarial accrued
294 liabilities are paid off, the board of trustees of the pension
295 plan, as approved by a majority of police officers of the
296 municipality, may:

297 (a) Place the income from the premium tax in s. 185.08 in
298 such pension plan for the sole and exclusive use of its police
299 officers, or its police officers and firefighters if where
300 included, where it shall become an integral part of that pension
301 plan and ~~shall~~ be used to pay extra benefits to the police
302 officers included in that pension plan; or



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303 (b) May place the income from the premium tax in s. 185.08
304 in a separate supplemental plan to pay extra benefits to the
305 police officers, or police officers and firefighters if ~~where~~
306 included, participating in such separate supplemental plan.

307 (2) The premium tax provided by this chapter shall in all
308 cases be used in its entirety to provide retirement ~~extra~~
309 benefits to police officers, or to police officers and
310 firefighters if, ~~where~~ included. However, local law plans in
311 effect on October 1, 1998, must ~~shall be required to~~ comply with
312 the minimum benefit provisions of this chapter only to the
313 extent that additional premium tax revenues become available to
314 incrementally fund the cost of such compliance as provided in s.
315 185.16(2). If ~~When~~ a plan is in compliance with such minimum
316 benefit provisions, as subsequent additional tax revenues become
317 available, they shall be used to provide extra benefits, except
318 as provided under subsection (1). For the purpose of this
319 chapter, "additional premium tax revenues" means revenues
320 received by a municipality pursuant to s. 185.10 which exceed
321 the amount received for calendar year 1997, and the term "extra
322 benefits" means benefits in addition to or greater than those
323 provided to general employees of the municipality and in
324 addition to those in existence for police officers on March 12,
325 1999. Local law plans created by special act before May 23,
326 1939, shall be deemed to comply with this chapter.

327 ~~(3)-(2) A ADOPTION OR REVISION OF A LOCAL LAW PLAN. No~~
328 retirement plan or amendment to a retirement plan may not ~~shall~~
329 be proposed for adoption unless the proposed plan or amendment
330 contains an actuarial estimate of the costs involved. ~~No~~ Such
331 proposed plan or proposed plan change may not ~~shall~~ be adopted



332 without the approval of the municipality or, where permitted,
333 the Legislature. Copies of the proposed plan or proposed plan
334 change and the actuarial impact statement of the proposed plan
335 or proposed plan change shall be furnished to the division
336 before ~~prior to~~ the last public hearing thereon. Such statement
337 must ~~shall~~ also indicate whether the proposed plan or proposed
338 plan change is in compliance with s. 14, Art. X of the State
339 Constitution and those provisions of part VII of chapter 112
340 which are not expressly provided in this chapter.

341 Notwithstanding any other provision, only those local law plans
342 created by special act of legislation before ~~prior to~~ May 23,
343 1939, are ~~shall be~~ deemed to meet the minimum benefits and
344 minimum standards only in this chapter.

345 (4) ~~(3)~~ Notwithstanding any other provision, with respect to
346 any supplemental plan municipality:

347 (a) Section 185.02(4)(a) does ~~shall~~ not apply, and a local
348 law plan and a supplemental plan may continue to use their
349 definition of compensation or salary in existence on March 12,
350 1999 ~~the effective date of this act.~~

351 (b) Section 185.05(1)(b) does ~~shall~~ not apply, and a local
352 law plan and a supplemental plan shall continue to be
353 administered by a board or boards of trustees numbered,
354 constituted, and selected as the board or boards were numbered,
355 constituted, and selected on December 1, 2000.

356 (c) The election set forth in paragraph (1)(b) is ~~shall be~~
357 deemed to have been made.

358 (5) ~~(4)~~ The retirement plan setting forth the benefits and
359 the trust agreement, if any, covering the duties and
360 responsibilities of the trustees and the regulations of the



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361 investment of funds must be in writing and copies made available
362 to the participants and to the general public.

363 Section 7. Financial rating of local pension plans.—The
364 Department of Financial Services shall develop standardized
365 ratings for classifying the financial strength of all local
366 government defined benefit pension plans.

367 (1) In assigning a rating to a plan, the department shall
368 consider, but need not be limited to:

369 (a) The plan's current and future unfunded liabilities.

370 (b) The plan's net asset value, managed returns, and funded
371 ratio.

372 (c) Metrics related to the sustainability of the plan,
373 including, but not limited to, the percentage that the annual
374 contribution is of the participating employee payroll.

375 (d) Municipal bond ratings for the local government, if
376 applicable.

377 (e) Whether the local government has reduced contribution
378 rates to the plan when the plan has an actuarial surplus.

379 (f) Whether the local government uses any actuarial surplus
380 in the plan for obligations outside the plan.

381 (2) The department may obtain all necessary data to
382 formulate the ratings from all relevant entities, including
383 local pension boards, local governments, and the Division of
384 Retirement, all of which shall cooperate with the department in
385 supplying all necessary information.

386 (3) The ratings shall be posted on the department's website
387 in a standardized format.

388 Section 8. Task Force on Public Employee Disability
389 Presumptions.—



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390 (1) The Task Force on Public Employee Disability
391 Presumptions is created for the purpose of developing findings
392 and issuing recommendations on the disability presumptions in
393 ss. 112.18, 185.34, and 175.231, Florida Statutes.

394 (2) All members of the task force shall be appointed on or
395 before July 15, 2011, and the task force shall hold its first
396 meeting on or before August 15, 2011. The task force shall be
397 composed of nine members as follows:

398 (a) Three members appointed by the President of the Senate,
399 one of whom must be an attorney in private practice who has
400 experience in the relevant laws; one of whom must be a
401 representative of organized labor; and one of whom must be from
402 the Florida Association of Counties.

403 (b) Three members appointed by the Speaker of the House of
404 Representatives, one of whom must be an attorney in private
405 practice who has experience in the relevant laws; one of whom
406 must be a representative of organized labor; and one of whom
407 must be from the Florida League of Cities.

408 (c) A member employed by the Office of the Auditor General
409 who has experience in local government auditing and finances.

410 (d) A member employed by the Department of Management
411 Services' Division of Retirement who has experience in local
412 government pension plans, appointed by the Governor.

413 (e) A member employed by the Department of Financial
414 Services who has relevant expertise in state risk management,
415 appointed by the Chief Financial Officer.

416 (3) The task force shall address issues, including, but not
417 limited to:

418 (a) Data related to the operation of the statutory



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419 disability presumptions.

420 (b) How disability presumptions are handled in other
421 states.

422 (c) Proposals for changes to the existing disability
423 presumptions.

424 (4) The Department of Financial Services shall provide
425 administrative support to the task force.

426 (5) Members of the task force shall serve without
427 compensation while in the performance of their duties, but are
428 entitled to reimbursement for per diem and travel expenses in
429 accordance with s. 112.061, Florida Statutes.

430 (6) The task force may obtain data, information, and
431 assistance from any officer or state agency and any political
432 subdivision thereof. All such officers, agencies, and political
433 subdivisions shall provide the task force with all relevant
434 information and assistance on any matter within their knowledge
435 or control.

436 (7) The task force shall submit a report, including
437 findings and recommendations, to the Governor, the Chief
438 Financial Officer, the President of the Senate, and the Speaker
439 of the House of Representatives by January 1, 2012. The report
440 must include specific recommendations for legislative action
441 during the 2012 Regular Session of the Legislature.

442 (8) The task force is dissolved upon submission of its
443 report.

444 Section 9. By December 1, 2011, the Department of Financial
445 Services shall submit a report and recommendations to the
446 Governor, the President of the Senate, and the Speaker of the
447 House of Representatives on actions to be taken to increase the



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448 visibility and transparency of local government pension plans,
449 including, but not limited to, those created pursuant to
450 chapters 175 and 185, Florida Statutes, with the goal of
451 increasing the ability of a taxpayer or policymaker to assess
452 the financial health of the local plans. The report must include
453 specific recommendations for legislative action during the 2012
454 Regular Session of the Legislature. The department shall consult
455 with the Legislature's office of Economic and Demographic
456 Research in formulating the recommendations, which must address,
457 but need not be limited to:

458 (1) Whether and what kinds of local pension plan data
459 should be included in the financial audit reports required under
460 s. 218.39, Florida Statutes.

461 (2) Whether the reporting requirements of ss. 175.261 and
462 185.221, Florida Statutes, should be supplemented with other
463 types of financial data in order to give a more complete and
464 transparent picture of a local government's financial solvency.

465 (3) Proposals for a uniform format for providing pension
466 data, including standard terminology and data and the specific
467 types of data which should be provided, including funding
468 ratios, and whether contributions are sufficient to fund
469 actuarial liabilities.

470 (4) Whether to require local governments to provide pension
471 financial data on local public websites.

472 (5) Other related issues, including insurance benefits,
473 health care benefits, and postemployment plan benefits.

474 (6) Proposals related to the composition of local pension
475 plan boards.

476 Section 10. The Legislature finds that a proper and



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477 legitimate state purpose is served when employees and retirees
478 of the state and of its political subdivisions, and the
479 dependents, survivors, and beneficiaries of those employees and
480 retirees, are extended the basic protections afforded by
481 governmental retirement systems that provide fair and adequate
482 benefits and that are managed, administered, and funded in an
483 actuarially sound manner as required by s. 14, Article X of the
484 State Constitution and part VII of chapter 112, Florida
485 Statutes. Therefore, the Legislature determines and declares
486 that this act fulfills an important state interest.

487 Section 11. This act shall take effect July 1, 2011.

488
489 ===== T I T L E A M E N D M E N T =====

490 And the title is amended as follows:

491 Delete everything before the enacting clause
492 and insert:

493 A bill to be entitled
494 An act relating to public retirement plans; amending
495 s. 112.66, F.S.; providing that a local governmental
496 entity may not offer a defined benefit retirement plan
497 to a plan member hired on or after a certain date;
498 providing for the calculation of retirement benefits
499 after a certain date; providing a prohibition on the
500 use of plan revenues; prohibiting a reduction in
501 certain contributions to a plan; requiring a plan to
502 provide disability benefits after a certain date;
503 providing a death benefit for the spouse and minor
504 children of a member hired after a certain date who is
505 killed in the line of duty; amending s. 121.051, F.S.;



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506 providing that a plan is eligible for participation in
507 the Florida Retirement System if it has no unfunded
508 actuarial liabilities; amending s. 175.032, F.S.;
509 revising the definition of the term "compensation" or
510 "salary" for purposes of firefighter pensions;
511 amending s. 175.351, F.S.; revising provisions
512 relating to benefits paid from the premium tax by a
513 municipality or special fire control district that has
514 its own pension plan; conforming a cross-reference;
515 amending s. 185.02, F.S.; revising the definition of
516 the terms "compensation" or "salary" for purposes of
517 police officer pensions; amending s. 185.35, F.S.;
518 revising provisions relating to benefits paid by a
519 municipality that has its own pension plan; directing
520 the Department of Financial Services to rate the
521 financial strength of local government defined benefit
522 plans; specifying the factors for assigning the
523 ratings; requiring certain entities to cooperate in
524 providing data for the ratings; requiring the ratings
525 to be posted on the department's website; creating the
526 Task Force on Public Employee Disability Presumptions;
527 providing for appointment and membership; specifying
528 the issues for the task force to address; providing
529 for a report to be submitted to the Governor, Chief
530 Financial Officer, and Legislature by a certain date;
531 providing for expiration; directing the Department of
532 Financial Services to submit a report on the financial
533 health of local government pension plans to the
534 Governor and Legislature by a certain date; specifying



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535 the issues the report must address; providing a
536 declaration of important state interest; providing an
537 effective date.



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LEGISLATIVE ACTION

Senate	.	House
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	.	

The Committee on Governmental Oversight and Accountability
(Latvala) recommended the following:

1 **Senate Amendment to Amendment (762940) (with title**
2 **amendment)**

3
4 Delete lines 5 - 41
5 and insert:

6 Section 1. Subsections (11) through (15) are added to
7 section 112.66, Florida Statutes, to read:

8 112.66 General provisions.—The following general provisions
9 relating to the operation and administration of any retirement
10 system or plan covered by this part shall be applicable:

11 (11) Effective July 1, 2011, for purposes of calculating
12 retirement benefits, a pension system or plan sponsored by a



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13 local government may not include any overtime, unused leave, or
14 any other form of compensation beyond base hourly or annual
15 salary in calculating a member's compensation or salary. For
16 those members whose terms and conditions of employment are
17 collectively bargained, this subsection is effective for the
18 first agreement negotiated on or after July 1, 2011.

19 (12) An actuarial or cash surplus in any system or plan may
20 not be used for any expenses outside the plan.

21 (13) A plan or system may not temporarily reduce
22 contributions required to fund normal cost.

23 (14) For each member hired on or after July 1, 2011, the
24 local government shall provide a disability retirement benefit
25 that meets the following minimum standards:

26 (a) A member who becomes totally and permanently disabled,
27 as defined in s. 121.091(4)(b), after completing a specified
28 amount of service as determined by the local government, is
29 entitled to a monthly disability benefit.

30 (b) The local government must specify what constitutes
31 permanent and total disability, how to determine proof of
32 disability, provisions related to recovery from disability, and
33 other necessary components of a disability retirement program.

34 (15) For each member who is a firefighter, police officer,
35

36 ===== T I T L E A M E N D M E N T =====

37 And the title is amended as follows:

38 Delete lines 495 - 497

39 and insert:

40 s. 112.66, F.S.;



497304

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Governmental Oversight and Accountability
(Latvala) recommended the following:

Senate Amendment to Amendment (762940)

Delete line 20

and insert:

local government may not include more than 300 hours per year of
overtime, unused leave, or

Delete line 89

and insert:

compensation in excess of 300 hours per year, unused leave, or
any other form of compensation



967576

LEGISLATIVE ACTION

Senate

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House

The Committee on Governmental Oversight and Accountability
(Bogdanoff) recommended the following:

Senate Amendment to Amendment (762940)

Delete line 89

and insert:

compensation or any other form of compensation

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371260

LEGISLATIVE ACTION

Senate

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House

The Committee on Governmental Oversight and Accountability
(Bogdanoff) recommended the following:

Senate Amendment to Amendment (762940)

Delete line 90

and insert:

beyond adjusted base hourly or annual salary may not be included
when



422222

LEGISLATIVE ACTION

Senate

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House

The Committee on Governmental Oversight and Accountability
(Latvala) recommended the following:

Senate Amendment to Amendment (762940)

Delete lines 150 - 151

and insert:

accumulated excess premium tax revenues held in reserve may be
used only once to pay the unfunded actuarial accrued liabilities



313084

LEGISLATIVE ACTION

Senate

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House

The Committee on Governmental Oversight and Accountability
(Latvala) recommended the following:

Senate Amendment to Amendment (762940)

Delete line 244

and insert:

any overtime in excess of 300 hours per year, unused leave, or
other compensation beyond base



452798

LEGISLATIVE ACTION

Senate

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House

The Committee on Governmental Oversight and Accountability
(Latvala) recommended the following:

Senate Amendment to Amendment (762940)

Delete lines 291 - 292

and insert:

accumulated excess premium tax revenues held in reserve, may be
used only once to pay off the unfunded actuarial accrued

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

BILL: SB 1130

INTRODUCER: Senator Ring

SUBJECT: Florida Retirement System

DATE: February 10, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Naf	Roberts	GO	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

This bill makes the following changes to the Florida Retirement System (FRS):

- Closes the defined benefit plan to members enrolled on or after July 1, 2011, and requires members enrolling on or after that date to enter the defined contribution plan.
- Changes vesting for members enrolled in the defined contribution plan on or after July 1, 2011. They will vest in graded increments over a five-year period.
- Changes the FRS from a noncontributory system to a contributory system and requires each active member of the FRS to contribute a percentage of gross salary to fund retirement benefits, effective July 1, 2011.
- Amends the definitions of “compensation” and “average final compensation” to exclude overtime and accumulated annual leave for all members, effective July 1, 2011.
- Creates an additional death benefit for members of the defined contribution plan who are killed in the line of duty.

The bill also:

- Establishes the required employer payroll contribution rates for each membership class and subclass of the FRS retirement plan for the fiscal year beginning July 1, 2011.
- Requires each active member of the Senior Management Service Optional Annuity Program, the State University System Optional Retirement Program, and the Community College Optional Retirement Program to contribute the same percentage of gross salary to fund retirement benefits as those contributed by FRS employees, effective July 1, 2011.
- Creates conforming and implementing provisions related to the substantive changes.

This bill substantially amends the following sections of the Florida Statutes:

110.123, 112.0801, 112.363, 112.65, 121.011, 121.021, 121.051, 121.0515, 121.052, 121.053, 121.055, 121.071, 121.081, 121.091, 121.121, 121.125, 121.35, 121.4501, 121.4502, 121.4503, 121.571, 121.591, 121.5911, 121.70, 121.71, 121.72, 121.73, 121.74, 121.77, 121.78, and 1012.875.

II. Present Situation:

Florida Retirement System

The Florida Retirement System (FRS) is a multi-employer, non-contributory pension plan providing retirement income benefits to the 572,000 active and 319,000 retired members and beneficiaries of its more than 900 state and local government public employers. Originally established in 1970 as the successor to the Teachers' Retirement System and the State, and County Officers' and Employees' Retirement System, the FRS is today a combination of five previously separate pension plans. Benefit payments are administered by the Department of Management Services through its Division of Retirement while investment management is undertaken by the Board of Administration. Established as a Section 401(a) government plan under the Internal Revenue Code, its benefits are exempt from federal taxation until received by the employee.

As a defined benefit plan, the FRS "Pension Plan" provides retirement income expressed as a percent of final pay. Participants accrue retirement credits based upon their eligibility in one of several membership classes. Years of creditable service multiplied by average final salary multiplied by the accrual rate for the membership class, plus up to 500 hours of annual leave, yield a monthly annuity benefit at normal retirement. The accrual rates range from 1.60 percent for the Regular Class to 3.33 percent for Justices and Judges. For most membership classes normal retirement occurs at the earlier attainment of 30 years' service or age 62. For public safety employees in the Special Risk Retirement and Special Risk Administrative Support Classes, normal retirement is the earlier attainment of age 55 or 25 years' service. Members seeking early retirement dates receive a five percent reduction in the benefit for each year below their normal age threshold.

All membership classes in the Pension Plan permit enrollment in a Deferred Retirement Option Program (DROP) under which a participant may extend employment for an additional five years - eight years for instructional personnel in district school boards - and receive a lump sum benefit at a fixed rate of interest, currently 6.5 percent, for that additional service. Enrollment in DROP requires the participant to serve the employer with a deferred resignation from employment at the end of the period. The defined benefit plan includes a fixed, annual cost-of-living adjustment of 3 percent.

The 2000 Legislature enacted sweeping changes to the FRS by creating the Public Employees Optional Retirement Program (Part II of ch. 121, F.S.), an alternative defined contribution or "Investment Plan" for its members. While a defined benefit plan provides an annuitized monthly benefit expressed as a percent of final pay, a defined contribution plan gives members an equity interest in their employer's payroll contributions and their earnings, although it does not assure a guaranteed result. DROP enrollment is unavailable in the Investment Plan due to the incompatibility of plan designs.

Reenrollment in the FRS is prohibited for retirees who are initially reemployed on or after July 1, 2010.

Management employees and instructional employees in higher educational units are also permitted to enroll in one of three other separate optional retirement programs that exist outside of FRS authority.

Employer Contribution Rates

FRS employers are responsible for contributing a set percentage of their employee's monthly compensation to the Division of Retirement to be distributed into the Florida Retirement System Contributions Clearing Trust Fund. The employer is required to make these contributions no later than the fifth working day of the month following the end of the payroll period.¹

The employer contribution rate is a "blended contribution rate" set by statute, which is the same percentage regardless of which plan their employee participates in. The rate is determined annually based on an actuarial study by the Department of Management Services that calculates the necessary level of funding to support all of the benefit obligations under both FRS retirement plans.² The current employer contribution rate for each membership class is:

¹ Section 121.78, F.S.

² Section 112.63, F.S.

Membership Class	Effective July 1, 2009	Effective July 1, 2010
Regular Class	8.69 %	9.63 %
Special Risk Class	19.76 %	22.11 %
Special Risk Administrative Support Class	11.39 %	12.10 %
Elected Officer's Class <ul style="list-style-type: none"> • Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders • Justices and Judges • County Officers 	13.32 % 18.40 % 15.37 %	15.20 % 20.65 % 17.50 %
Senior Management Class	11.96 %	13.43 %

3

After employer contributions are placed into the FRS Contributions Clearing Trust Fund, benefits under the Investment Plan are transferred to third-party administrators to be placed in the employee's individual investment accounts, whereas benefits under the Pension Plan are placed into the FRS Trust Fund.⁴

Calculation of Pension Plan Benefits

Benefits payable to a pension plan retiree are calculated using formulas that include the average final compensation. "Average final compensation" means the average of the 5 highest fiscal years of compensation for creditable service prior to retirement, termination, or death. The average final compensation includes accumulated annual leave payments, not to exceed 500 hours, and all payments defined as compensation in s. 121.021(22). The average final compensation does not include compensation paid to professional persons for special or particular services; payments for accumulated sick leave made due to retirement or termination; payments for accumulated annual leave in excess of 500 hours; bonuses as defined in s. 121.021(47); third party payments made on or after July 1, 1990; or fringe benefits such as automobile or housing allowances.⁵

"Compensation" means the monthly salary paid a member by his or her employer for work performed arising from that employment. Compensation includes overtime payments paid from a salary fund; accumulated annual leave payments; payments in addition to the employee's base rate of pay if specified conditions apply; amounts withheld for tax sheltered annuities or deferred compensation programs, or any other type of salary reduction plan authorized under the Internal Revenue Code.⁶

³ Section 121.71, F.S.

⁴ See ss. 121.4503 and 121.72, F.S.

⁵ Section 121.021(24), F.S.

⁶ Section 121.021(22), F.S.

Investment Plan Death Benefit

In the event of the death of a participant in the investment plan, vested benefits will be paid to the participant's designated beneficiary or beneficiaries.⁷

Optional Retirement Programs

Eligible employees may elect to participate in one of three optional retirement programs in lieu of participation in the FRS.

Members of the Senior Management Service Class may elect to enroll in the Senior Management Service Optional Annuity Program.⁸ Employees in specified positions in the State University System may elect to enroll in the State University System Optional Retirement Program.⁹ Eligible employees of a community college may elect to enroll in the Community College Optional Retirement Program.¹⁰

III. Effect of Proposed Changes:

Section 1 amends s. 110.123, F.S., to make technical drafting changes and to make a conforming change to the name change to the FRS defined contribution program.

Section 2 amends 112.0801, F.S., to make technical drafting changes.

Section 3 amends s. 112.363, F.S., to make technical drafting changes and to make conforming changes to the name change to the FRS defined contribution program.

Section 4 amends 112.65, F.S., to make technical drafting changes and to make a conforming change to the name change to the FRS defined contribution program.

Section 5 amends s. 121.011, F.S., to require employee contributions effective July 1, 2011.

Section 6 amends s. 121.021, F.S., to:

- Amend the definition of "compensation" for purposes of the FRS defined benefit program to exclude overtime payments paid from a salary fund and accumulated annual leave payments.
- Amend the definition of "average final compensation" for purposes of the FRS defined benefit program to exclude accumulated annual leave payments and overtime payments paid from a salary fund.
- Make technical drafting changes; make a conforming change to the name change to the FRS defined contribution program; and make conforming changes to the implementation of employee contributions.

Section 7 amends s. 121.051, F.S., to:

⁷ Section 121.591(3), F.S.

⁸ Section 121.055(6), F.S.

⁹ Section 121.35, F.S.

¹⁰ Section 1012.875, F.S.

- Make technical drafting changes and to make a conforming change to the name change to the FRS defined contribution program.
- Provide that the governing body of a charter school joining the FRS prior to July 1, 2011, may elect to provide or not provide benefits based on the past service of officers and employees as described in s. 121.081(1).
- Require employees eligible to elect to join the FRS who choose to do so on or after July 1, 2011, to enter the defined contribution program. Such employees may not use the second election opportunity specified in s. 121.4501(4)(e).
- Clarify that the employer-paid employee contributions specified in s. 121.71(2) are subject to taxes imposed under the Federal Insurance Contributions Act.

Section 8 amends s. 121.0515, F.S., to make technical drafting changes and to make a conforming change to the implementation of employee contributions.

Section 9 amends s. 121.052, F.S., to:

- Specify that effective July 1, 2011, members of the Elected Officers' Class hired on or after that date will begin paying contributions. If a member ceases to fill the office for 3 consecutive months for any reason other than retirement and has not been employed in any capacity with any participating employer for 3 calendar months, the member is eligible for a refund of the employee contributions; however, by taking such refund the member waives all rights to the service credit under the FRS represented by the refunded contributions, except the right to purchase prior service credit in accordance with s. 121.081(2). A member may not receive a refund if a qualified domestic relations order is filed against the member's retirement account. Partial refunds are not permitted.
- Make technical drafting changes.

Section 10 amends s. 121.053, F.S., to:

- Specify that members and employers of members in the Elected Officers' Class who are enrolled in DROP must pay unfunded actuarial liability and health insurance subsidy contributions required by ss. 121.75(5) and 121.76.
- Make a conforming change to the implementation of employee contributions.

Section 11 amends s. 121.055, F.S., to:

- Specify that members of the Senior Management Service Class will begin paying contributions July 1, 2011. If a member ceases to fill the office for 3 consecutive months for any reason other than retirement, the member is eligible for a refund of the employee contributions; however, by taking such refund the member waives all rights to the service credit under the FRS represented by the refunded contributions, except the right to purchase prior service credit in accordance with s. 121.081(2). A member may not receive a refund if a qualified domestic relations order is filed against the member's retirement account. Partial refunds are not permitted.
- Specify that members of the Senior Management Service class who are participating in the Senior Management Service Class optional annuity program will begin paying contributions July 1, 2011. The member will pay the amount of the employee contribution required in s. 121.71(3). The member's employer will pay the difference between 12.49 percent of the member's gross monthly compensation and the amount of the member's contribution.

- Make technical drafting changes and conforming changes to the implementation of employee contributions.

Section 12 amends s. 121.071, F.S., to:

- Specify that employees and employers will pay retirement contributions as specified in s. 121.71 on July 1, 2011.
- Specify that three months after termination, a member is entitled to a refund of contributions he or she made before or after participating in the FRS. Partial refunds are not permitted. Employer contributions made on behalf of the member are not refundable. The refund may not include interest earnings on contributions for a member of the defined benefit program. A member may not receive a refund if a qualified domestic relations order is filed against his or her retirement account. By obtaining a refund of contributions, a member waives all rights under the FRS and the health insurance subsidy to the service credit represented by the refunded contributions, except the right to purchase his or her prior service credit.
- Specify that if a member or former member of the defined benefit program receives an invalid refund from the FRS Trust Fund, such person must repay the full amount of the refund, plus interest at 6.5 percent compounded annually on each June 30 from the date of refund until full repayment is made. The invalid refund must be repaid before the member retires or, if applicable, transfers to the defined contribution plan.
- Make technical drafting changes and conforming changes to the implementation of employee contributions.

Section 13 amends s. 121.081, F.S., to:

- Make a conforming change due to the closure of the defined benefit plan to specify that no past service can be purchased in the defined contribution plan.
- Make technical drafting changes and a conforming change to the implementation of employee contributions.
- Specify that for prior service performed on or after July 1, 2011, for which the member had credit under the Florida Retirement System and received a refund of contributions 3 months after termination of employment, the member shall contribute at the rate that was required during the period of service being claimed, plus 6.5 percent interest, compounded annually on each June 30 from date of refund until the full payment is made to the Florida Retirement System Trust Fund, and shall receive credit in the membership class in which the member participated during the period claimed.

Section 14 amends s. 121.091, F.S., to:

- Specify that effective July 1, 2011, upon termination from all participating employers for 3 calendar months for any reason other than retirement, a member may receive a refund of all contributions he or she made to the defined benefit program. Partial refunds are not permitted. The refund may not include any interest earnings on the contributions for a member of the defined benefit program. Employer contributions made on behalf of the member are not refundable. A member may not receive a refund of employee contributions if a qualified domestic relations order is filed against his or her retirement account. By obtaining a refund of contributions, a member waives all rights under the FRS and the health insurance subsidy to the service credit represented by the refunded contributions, except the right to purchase his or her prior service credit.

- Make technical drafting changes.

Section 15 amends s. 121.091, F.S., to:

- Make technical drafting changes.
- Raise the age by which a member must enroll in DROP.

Section 16 amends s. 121.121, F.S., to:

- Specify that effective July 1, 2011, any leave of absence purchased pursuant to the section shall be at the employee and employer contribution rates specified in s. 121.71 in effect during the leave for the class of membership from which the leave of absence was granted.
- Make technical drafting changes.

Section 17 amends s. 121.125, F.S., to make technical drafting changes and to make a conforming change to the implementation of employee contributions.

Section 18 amends s. 121.35, F.S., to:

- Make technical drafting changes and conforming changes to the implementation of employee contributions.
- Specify that members of the State University System Optional Retirement Program will begin paying contributions July 1, 2011. The member will pay the amount of the employee contribution required in s. 121.71(3). The member's employer will pay the difference between 10.43 percent of the member's gross monthly compensation and the amount of the member's contribution.

Section 19 amends s. 121.4501, F.S., to:

- Change the name of the "Public Employee Optional Retirement Program" to the "Florida Retirement System Investment Plan."
- Specify that enrollment in the defined contribution plan is compulsory for members enrolled on or after July 1, 2011.
- Make technical drafting changes; changes to conform to the program name change; changes to conform to the implementation of employee contributions; and changes to conform to the closure of the defined benefit program.
- Create definitions for "district school board employer," "investment plan," "local employer," and "state employer."
- Specify that if contribution adjustments are made as a result of employer errors or corrections, including plan corrections, following recomputation of the amount transferred, the participant is entitled to the additional contributions or is responsible for returning any excess contributions resulting from the correction if the return of such contributions by the plan is made within 1 year after the making of the erroneous contributions or such other period allowed by applicable Internal Revenue Service guidance. The present value of the member's accumulated benefit obligation may not be recalculated.
- Clarify that the state board shall establish transfer procedures by rule.
- Delete obsolete language regarding old choices.
- Specify that on or after July 1, 2011, a member of the defined benefit program who obtains a refund of employee contributions retains his or her prior plan choice upon return to employment in a regularly established position with a participating employer.

- Specify that a member of the defined contribution plan who takes a distribution of any contributions from his investment plan account is considered a retiree.
- Specify that a refund of any employee contributions or additional employee payments which exceed the employee contributions that would have accrued had an employee enrolled before July 1, 2011 not elected to change plans is not permitted.
- Specify that participant contributions shall be paid on a pretax basis, as provided in s. 401 of the Internal Revenue Code. Such contributions may not exceed federal limitations. A participant is responsible for monitoring his or her individual contributions to ensure that he or she does not exceed the maximum deferral amounts permitted under the Internal Revenue Code. A participant's total contribution equals the sum all amounts deducted from the participant's salary by his or her employer in accordance with s. 121.71(2) and credited to his or her individual account in the investment plan, plus any earnings on such amounts and any specified contributions.
- Specify that a participant is fully and immediately vested in all participant contributions paid to the investment plan, plus interest and earnings thereon and less investment fees and administrative charges.
- Create a new vesting schedule for employees enrolled in the FRS investment plan on or after July 1, 2011. Such employees vest at 40% upon completion of three years of service, 80% upon 4 years of service, and 100% upon 5 years of service.
- Specify that if the participant elects to receive any of his or her vested employer or participant contributions upon termination of employment as defined in s. 121.021, except for a mandatory distribution of a de minimis account authorized by the state board or a minimum required distribution provided by s. 401(a)(9) of the Internal Revenue Code, the participant shall forfeit all nonvested employer contributions and accompanying service credit paid on behalf of the participant to the investment plan.

Section 20 amends s. 121.4501, F.S., to make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.

Section 21 amends s. 121.4503, F.S., to make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.

Section 22 amends s. 121.571, F.S., to make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.

Section 23 amends s. 121. 591, F.S., to:

- Make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.
- Specify that benefits are not payable under the investment plan before termination of employment as provided in s. 121.021(39)(a) for employee hardships, unforeseeable emergencies, loans, medical expenses, educational expenses, purchase of a principal

residence, payments necessary to prevent eviction or foreclosure on an employee's principal residence, or for any other reason.

- Codify and clarify current policy regarding retirement.
- Create an additional death benefit for members of the defined contribution plan who are killed in the line of duty. The surviving spouse of a participant killed in the line of duty may receive a monthly pension equal to one-half of the monthly salary being received by the participant at the time of death for the rest of the surviving spouse's lifetime. If the surviving spouse of a participant killed in the line of duty dies, the monthly payments that would have been payable to the surviving spouse had such surviving spouse lived shall be paid for the use and benefit of such participant's children under 18 years of age and unmarried until the 18th birthday of the participant's youngest child. If a participant killed in the line of duty leaves no surviving spouse but is survived by children under 18 years of age, the benefits provided shall be paid for the use and benefit of the participant's child or children under 18 years of age and unmarried until the 18th birthday of the participant's youngest child.

Section 24 amends s. 121.5911, F.S., to make technical drafting changes and conforming changes to the name change of the FRS defined contribution program.

Section 25 amends s. 121.70, F.S., to make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.

Section 26 amends s. 121.71, F.S., to:

- Make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the program name change of the FRS defined contribution plan.
- Specify administrative and tax provisions regarding employee contributions.
- Create a statutory column for employee contribution rates.
- Provide that if a member is reported under an incorrect membership class and the amount of contributions reported and remitted are less than the amount required, the employer shall owe the difference, plus the delinquent fee, of 1 percent for each calendar month or part thereof that the contributions should have been paid.
- Set out the employee rates, the employer rates and the rates to fund any unfunded actuarial liabilities payable by the employers. The employers are permitted to deduct the employee contributions from the employee's monthly gross salary on a pretax basis. Employee contributions are set at an undefined percentage of gross salary beginning July 1, 2011. The employer contributions are set to meet the blended normal costs of the FRS (the defined benefit and defined contribution plans combined). The contribution rates for the unfunded actuarial liability are set at 0% for FY 2011-2012 and at the blended UAL rate beginning July 1, 2012. Under current law, the UAL rates will also be imposed upon the optional retirement programs offered for the state university system, the community colleges and the Senior Management Service.

Section 27 amends s. 121.72, F.S., to make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.

Section 28 amends s. 121.73, F.S., to:

- Make technical drafting changes and conforming changes to the program name change of the FRS defined contribution plan.
- Specify that effective July 1, 2011, allocations from the FRS Contribution Clearing Fund to provide disability coverage for participants in the investment plan and to offset the costs of administering such coverage shall be the actuarially indicated amount necessary to fund the statutorily authorized benefit for the plan year as determined by the department's actuary.

Section 29 amends s. 121.74, F.S., to make technical drafting changes and conforming changes to the name change of the FRS defined contribution program.

Section 30 amends s. 121.77, F.S., to make technical drafting changes and conforming changes to the name change of the FRS defined contribution program.

Section 31 amends s. 121.78, F.S., to:

- Make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.
- Specify that retirement contributions paid for a prior period shall be charged a delinquent fee of 1 percent for each calendar month or part thereof that the contributions should have been paid. This includes prior period contributions due to incorrect wages, contributions from an earlier report or wages, and contributions that should have been reported but were not. The delinquent assessments may not be waived.
- Specify that if employee contributions reported by an employer on behalf of participants are reduced as a result of employer errors or corrections and the participant has terminated employment and taken a refund or distribution, the employer shall be billed and is responsible for recovering from the participant any excess contributions erroneously provided by the employer.
- Specify that if the employer submits excess employer or employee contributions, the employer shall receive a credit to be applied against future contributions owed. The employer is responsible for reimbursing the employee for any excess contributions submitted if any return of such an erroneous excess pretax contribution by the program is made within 1 year after making erroneous contributions or such other period as allowed under applicable Internal Revenue guidance.

Section 32 amends s. 1012.875, F.S., to:

- Make technical drafting changes and changes to conform to the implementation of employee contributions.
- Specify that effective July 1, 2011, each participant in the State Community College System Optional Retirement Program shall contribute an amount equal to the employee contribution required under s. 121.71(3). Effective July 1, 2011, each employer shall contribute on behalf of each program participant an amount equal to the difference between 10.43 percent of the participant's gross monthly compensation and the employee's required contribution based on the employee's gross monthly compensation.

Section 33 requires an actuarial study of alternative DROP funding.

Section 34 provides a statement of legitimate state interest as required by Article VII, s. 18(a) of the State Constitution and requires that all benefits be funded on a sound actuarial basis as required by Article X, s.14 of the State Constitution, and Part VII of ch. 112, F.S.

Section 35 requests the Division of Statutory Revision to rename the title of part II of chapter 121, Florida Statutes, as “Florida Retirement System Investment Plan.”

Section 36 appropriates and authorizes the following for the Division of Retirement within the Department of Management Services for the purposes of implementing the act:

- \$414,109 of recurring funds and \$31,016 of nonrecurring funds from the FRS Operating Trust Fund, and
- Eight full-time equivalent positions and salary rate or \$265,621.

Section 37 specifies that effective upon the act becoming a law, the State Board of Administration and the Department of Management Services shall, as soon as practicable, request a determination letter and private letter ruling from the United States Internal Revenue Service. If the Internal Revenue Service refuses to act upon a request for a private letter ruling, the legal opinion from a qualified tax attorney or firm may be substituted for the private letter ruling. If the board or the department receives notification from the United States Internal Revenue Service that this act or any portion of this act will cause the Florida Retirement System, or a portion thereof, to be disqualified for tax purposes under the Internal Revenue Code, then that portion does not apply. Upon such notice, the state board and the department shall notify the presiding officers of the Legislature.

Section 38 specifies that except as otherwise expressly provided in the act, the effective date is June 30, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (a) of s. 18, Art. VII of the Florida Constitution provides that “no county or municipality shall be bound by any general law requiring such county or municipality to spend funds ... unless the legislature has determined that such law fulfills an important state interest and unless: ... the expenditure is required to comply with a law that applies to all persons similarly situated”

This bill includes a legislative finding that the bill fulfills an important state interest.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The Florida Constitution provides that any retirement or pension system supported in whole or part by public funds shall not increase benefits to the members or beneficiaries of the system after January 1, 1977, unless the provision of the funding increase is made on a sound actuarial basis.¹¹ The “Florida Protection of Public Employee Retirement Benefits Act” prohibits “the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers.”¹²

Provisions in the bill that create additional benefits may require an actuarial study.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:**Employee Contribution**

Each active employee of the FRS, the Senior Management Service Optional Annuity Plan, the State University System Optional Retirement Plan and the Community College Optional Retirement Plan will contribute a percentage of his/her gross salary on a pretax basis.

C. Government Sector Impact:**Closing Defined Benefit Plan**

Closing the defined benefit plan to new members will result in increased funding requirements for a period of approximately 25 years as liabilities in benefit payments continue but employer contributions for new members are not incoming.¹³ Closing the defined benefit plan to new members will also result in increased funding requirements for the disability program for the same reason.

Death Benefit for Defined Contribution Plan

Creating a monthly death benefit for survivors of a defined contribution plan participant killed in the line of duty will result in indeterminate increased funding requirements.

¹¹ Article X, Section 14, Florida Constitution.

¹² Section 112.61, F.S.

¹³ Actuarial study, “Study Reflecting the Impact of Closing the Florida Retirement System Pension Plan Including Projected Blended Rates for the next 30 Fiscal Years,” July 8, 2010, on file with the Committee on Governmental Oversight and Accountability.

Requiring Employee Contributions

Requiring employee contributions to the FRS will result in an indeterminate increase in cash flow.

Administrative Costs

The changes made in the bill may result in increased administrative costs incurred by the Division of Retirement within the Department of Management Services.

VI. Technical Deficiencies:

The Legislature may wish to clarify that the change in definitions of “compensation” and “average final compensation” in s. 121.021, F.S., are prospective for service earned.

The Legislature may wish to consider making terminology regarding the names of the two FRS plan options and the term used for participants consistent throughout the bill.

The date in line 2490 should be July 1, 2010.

The terms of the actuarial study required in Section 33 have already been completed.

VII. Related Issues:

Other economic factors and policy considerations could result in a change to the employer contribution rates listed in the bill.

The Division of Retirement within the Department of Management Services anticipates that it will require two additional full-time equivalent positions for the purpose of implementing this act.

VIII. Additional Information:

A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Governmental Oversight and Accountability
(Ring) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (g) of subsection (2) of section
110.123, Florida Statutes, is amended to read:

110.123 State group insurance program.—

(2) DEFINITIONS.—As used in this section, the term:

(g) "Retired state officer or employee" or "retiree" means
a any state, or state university, officer or employee who
retires under a state retirement system or a state optional
annuity or retirement program or is placed on disability



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13 retirement, ~~and~~ who was insured under the state group insurance
14 program at the time of retirement, and who begins receiving
15 retirement benefits immediately after retirement from state or
16 state university office or employment. The term also includes ~~In~~
17 ~~addition to these requirements,~~ any state officer or ~~state~~
18 employee who retires under the investment plan ~~Public Employee~~
19 ~~Optional Retirement~~ program established under part II of chapter
20 121 ~~shall be considered a "retired state officer or employee" or~~
21 ~~"retiree" as used in this section~~ if he or she:

- 22 1. Meets the age and service requirements to qualify for
23 normal retirement as set forth in s. 121.021(29); or
24 2. Has attained the age specified by s. 72(t)(2)(A)(i) of
25 the Internal Revenue Code and has 6 years of creditable service.

26 Section 2. Section 112.0801, Florida Statutes, is amended
27 to read:

28 112.0801 Group insurance; participation by retired
29 employees.—

30 ~~(1)~~ Any state agency, county, municipality, special
31 district, community college, or district school board that ~~which~~
32 provides life, health, accident, hospitalization, or annuity
33 insurance, or all of any kinds of such insurance, for its
34 officers and employees and their dependents upon a group
35 insurance plan or self-insurance plan shall allow all former
36 personnel who ~~have~~ retired before ~~prior to~~ October 1, 1987, as
37 well as those who retire on or after such date, and their
38 eligible dependents, the option of continuing to participate in
39 the ~~such~~ group insurance plan or self-insurance plan. Retirees
40 and their eligible dependents shall be offered the same health
41 and hospitalization insurance coverage as is offered to active



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42 employees at a premium cost of no more than the premium cost
43 applicable to active employees. For ~~the~~ retired employees and
44 their eligible dependents, the cost of ~~any such~~ continued
45 participation ~~in any type of plan or any of the cost thereof~~ may
46 be paid by the employer or by the retired employees. To
47 determine health and hospitalization plan costs, the employer
48 shall commingle the claims experience of the retiree group with
49 the claims experience of the active employees; and, for other
50 types of coverage, the employer may commingle the claims
51 experience of the retiree group with the claims experience of
52 active employees. Retirees covered under Medicare may be
53 experience-rated separately from the retirees not covered by
54 Medicare and from active employees ~~if, provided that~~ the total
55 premium does not exceed that of the active group and coverage is
56 basically the same as for the active group.

57 ~~(2) For purposes of this section, the term "retiree" has~~
58 ~~the same meaning as in s. 110.123(2) means any officer or~~
59 ~~employee who retires under a state retirement system or a state~~
60 ~~optional annuity or retirement program or is placed on~~
61 ~~disability retirement and who begins receiving retirement~~
62 ~~benefits immediately after retirement from employment. In~~
63 ~~addition to these requirements, any officer or employee who~~
64 ~~retires under the Public Employee Optional Retirement Program~~
65 ~~established under part II of chapter 121 shall be considered a~~
66 ~~"retired officer or employee" or "retiree" as used in this~~
67 ~~section if he or she:~~

68 ~~(a) Meets the age and service requirements to qualify for~~
69 ~~normal retirement as set forth in s. 121.021(29); or~~

70 ~~(b) Has attained the age specified by s. 72(t)(2)(A)(i) of~~



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71 ~~the Internal Revenue Code and has 6 years of creditable service.~~

72 Section 3. Paragraphs (b) and (c) of subsection (2) and
73 paragraph (e) of subsection (3) of section 112.363, Florida
74 Statutes, are amended to read:

75 112.363 Retiree health insurance subsidy.—

76 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—

77 (b) For purposes of this section, a person is deemed
78 retired from a state-administered retirement system when he or
79 she terminates employment with all employers participating in
80 the Florida Retirement System as described in s. 121.021(39)
81 and:

82 1. For a member participant of the investment plan Public
83 ~~Employee Optional Retirement program~~ established under part II
84 of chapter 121, the member participant meets the age or service
85 requirements to qualify for normal retirement as set forth in s.
86 121.021(29) and meets the definition of retiree in s.
87 121.4501(2).

88 2. For a member of the pension plan Florida Retirement
89 ~~System defined benefit program~~, or any employee who maintains
90 creditable service under ~~both~~ the pension plan and the
91 investment plan defined benefit program and the Public Employee
92 ~~Optional Retirement program~~, the member begins drawing
93 retirement benefits from the pension plan defined benefit
94 ~~program of the Florida Retirement System.~~

95 (c)~~1~~. Effective July 1, 2001, any person retiring on or
96 after that such date as a member of the Florida Retirement
97 System, including a member any participant of the investment
98 plan defined contribution program administered pursuant to part
99 II of chapter 121, must have satisfied the vesting requirements



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100 for his or her membership class under the pension plan Florida
101 ~~Retirement System defined benefit program~~ as administered under
102 part I of chapter 121. However,

103 ~~2. Notwithstanding the provisions of subparagraph 1.,~~ a
104 person retiring due to disability must ~~either~~ qualify for a
105 regular or in-line-of-duty disability benefit as provided in s.
106 121.091(4) or qualify for a disability benefit under a
107 disability plan established under part II of chapter 121, as
108 appropriate.

109 (3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

110 (e)1. Beginning July 1, 2001, each eligible retiree of the
111 pension plan defined benefit program of the Florida Retirement
112 System, or, if the retiree is deceased, his or her beneficiary
113 who is receiving a monthly benefit from such retiree's account
114 and who is a spouse, or a person who meets the definition of
115 joint annuitant in s. 121.021~~(28)~~, shall receive a monthly
116 retiree health insurance subsidy payment equal to the number of
117 years of creditable service, as defined in s. 121.021~~(17)~~,
118 completed at the time of retirement multiplied by \$5; however,
119 an ~~ne~~ eligible retiree or beneficiary may not receive a subsidy
120 payment of more than \$150 or less than \$30. If there are
121 multiple beneficiaries, the total payment may ~~must~~ not be
122 greater than the payment to which the retiree was entitled. The
123 health insurance subsidy amount payable to any person receiving
124 the retiree health insurance subsidy payment on July 1, 2001,
125 may ~~shall~~ not be reduced solely by operation of this
126 subparagraph.

127 2. Beginning July 1, 2002, each eligible member participant
128 of the investment plan under part II of chapter 121 Public



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129 ~~Employee Optional Retirement program of the Florida Retirement~~
130 ~~System~~ who has met the requirements of this section, or, if the
131 ~~member participant~~ is deceased, his or her spouse who is the
132 ~~member's participant's~~ designated beneficiary, shall receive a
133 monthly retiree health insurance subsidy payment equal to the
134 number of years of creditable service, as provided in this
135 subparagraph, completed at the time of retirement, multiplied by
136 \$5; however, an ~~ne~~ eligible retiree or beneficiary may not
137 receive a subsidy payment of more than \$150 or less than \$30.
138 For purposes of determining a ~~member's participant's~~ creditable
139 service used to calculate the health insurance subsidy, the
140 ~~member's a participant's~~ years of service credit or fraction
141 thereof must ~~shall~~ be based on the ~~member's participant's~~ work
142 year as defined in s. 121.021(54). Credit must ~~shall~~ be awarded
143 for a full work year if ~~whenever~~ health insurance subsidy
144 contributions have been made ~~as required by law~~ for each month
145 in the ~~member's participant's~~ work year. In addition, all years
146 of creditable service retained under the Florida Retirement
147 System pension plan must ~~defined benefit program shall~~ be
148 included as creditable service for purposes of this section.
149 Notwithstanding any other provision in this section ~~to the~~
150 ~~contrary~~, the spouse at the time of death is ~~shall be~~ the
151 ~~member's participant's~~ beneficiary unless such member
152 ~~participant~~ has designated a different beneficiary subsequent to
153 the ~~member's participant's~~ most recent marriage.

154 Section 4. Subsection (1) of section 112.65, Florida
155 Statutes, is amended to read:

156 112.65 Limitation of benefits.—

157 (1) ESTABLISHMENT OF PROGRAM.—The normal retirement benefit



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158 or pension payable to a retiree who becomes a member of a any
159 retirement system or plan and who has not previously
160 participated in such plan, on or after January 1, 1980, may
161 ~~shall~~ not exceed 100 percent of his or her average final
162 compensation. However, ~~nothing contained in this section~~ does
163 not shall apply to supplemental retirement benefits or to
164 pension increases attributable to cost-of-living increases or
165 adjustments. For the purposes of this section, benefits accruing
166 in individual member participant accounts established under the
167 investment plan ~~Public Employee Optional Retirement program~~
168 established in part II of chapter 121 are considered
169 supplemental benefits. As used in this section, the term
170 "average final compensation" means the average of the member's
171 earnings over a period of time which the governmental entity
172 establishes ~~has established~~ by statute, charter, or ordinance.

173 Section 5. Paragraph (h) is added to subsection (3) of
174 section 121.011, Florida Statutes, to read:

175 121.011 Florida Retirement System.—

176 (3) PRESERVATION OF RIGHTS.—

177 (h) Effective July 1, 2011, the retirement system shall
178 require employee and employer contributions as provided in s.
179 121.071 and part III of this chapter.

180 Section 6. Subsection (3), paragraph (a) of subsection
181 (19), paragraphs (a) and (b) of subsection (22), subsection
182 (24), paragraph (b) of subsection (45), subsection (55), and
183 subsection (59) of section 121.021, Florida Statutes, are
184 amended to read:

185 121.021 Definitions.—The following words and phrases as
186 used in this chapter have the respective meanings set forth



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187 unless a different meaning is plainly required by the context:

188 (3) "Florida Retirement System" or "system" means the
189 general retirement system established by this chapter, ~~to be~~
190 ~~known and cited as the "Florida Retirement System,"~~ including,
191 but not limited to, the defined benefit ~~retirement~~ program or
192 pension plan administered under ~~the provisions of part I of this~~
193 ~~part chapter~~ and the defined contribution ~~retirement~~ program or
194 investment plan ~~known as the Public Employee Optional Retirement~~
195 ~~Program and~~ administered under ~~the provisions of part II of this~~
196 chapter.

197 (19) "Prior service" ~~under this chapter~~ means:

198 (a) Service for which the member had credit under one of
199 the existing systems and received a refund of his or her
200 contributions upon termination of employment. Prior service
201 ~~shall also~~ includes ~~include that service between December 1,~~
202 ~~1970, and the date the system becomes noncontributory~~ for which
203 the member had credit under the Florida Retirement System and
204 received a refund of his or her contributions upon termination
205 of employment.

206 (22) "Compensation" means the monthly salary paid a member
207 by his or her employer for work performed arising from that
208 employment.

209 (a) For service earned before July 1, 2011, compensation
210 includes ~~shall include~~:

- 211 1. Overtime payments paid from a salary fund.
212 2. Accumulated annual leave payments.
213 3. Payments in addition to the employee's base rate of pay
214 if ~~all~~ the following apply:
215 a. The payments are paid according to a formal written



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216 policy that applies to all eligible employees equally;
217 b. The policy provides that payments ~~shall~~ commence by ~~no~~
218 ~~later than~~ the 11th year of employment;
219 c. The payments are paid for as long as the employee
220 continues his or her employment; and
221 d. The payments are paid at least annually.
222 4. Amounts withheld for tax sheltered annuities or deferred
223 compensation programs, or any other type of salary reduction
224 plan authorized under the Internal Revenue Code.
225 5. Payments made in lieu of a permanent increase in the
226 base rate of pay, whether made annually or in 12 or 26 equal
227 payments within a 12-month period, if ~~when~~ the member's base pay
228 is at the maximum of his or her pay range. If ~~When~~ a portion of
229 a member's annual increase raises his or her pay range and the
230 excess is paid as a lump sum payment, the ~~such~~ lump sum payment
231 is considered ~~shall be~~ compensation for retirement purposes.
232 (b) For service earned on or after July 1, 2011,
233 compensation includes:
234 1. Payments in addition to the employee's base rate of pay
235 if the following apply:
236 a. The payments are paid according to a formal written
237 policy that applies to all eligible employees equally;
238 b. The policy provides that payments shall commence by 11th
239 year of employment; and
240 c. The payments are paid at least annually.
241 2. Amounts withheld for tax sheltered annuities, deferred
242 compensation programs, or any other type of salary reduction
243 plan authorized under the Internal Revenue Code.
244 3. Payments made in lieu of a permanent increase in the



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245 base rate of pay, whether made annually or in 12 or 26 equal
246 payments within a 12-month period, if the member's base pay is
247 at the maximum of his or her pay range. If a portion of a
248 member's annual increase raises his or her pay range and the
249 excess is paid as a lump sum payment, such lump sum payment is
250 compensation for retirement purposes.

251 (c)(b) Under no circumstances shall Compensation for a
252 member participating in the pension plan ~~defined benefit~~
253 ~~retirement program~~ or the investment plan ~~Public Employee~~
254 ~~Optional Retirement Program~~ of the Florida Retirement System may
255 not include:

256 1. Fees paid professional persons for special or particular
257 services or ~~include~~ salary payments made from a faculty practice
258 plan authorized by the Board of Governors of the State
259 University System for eligible clinical faculty at a college in
260 a state university that has a faculty practice plan; or

261 2. Any bonuses or other payments prohibited from inclusion
262 in the member's average final compensation ~~and defined in~~
263 ~~subsection (47).~~

264 (24) "Average final compensation" means the average of the
265 5 highest fiscal years of compensation for creditable service
266 prior to retirement, termination, or death. For in-line-of-duty
267 disability benefits, if less than 5 years of creditable service
268 have been completed, the term ~~"average final compensation"~~ means
269 the average annual compensation of the total number of years of
270 creditable service. Each year used to calculate ~~in the~~
271 ~~calculation of~~ average final compensation commences ~~shall~~
272 ~~commence~~ on July 1.

273 (a) For service earned before July 1, 2011:



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274 1. The average final compensation includes ~~shall include~~:

275 a.1. ~~Accumulated annual leave payments, not to exceed 500~~

276 hours; and

277 b.2. All payments defined as compensation under this

278 section in subsection (22).

279 2.(b) The average final compensation does ~~shall~~ not

280 include:

281 a.1. Compensation paid to professional persons for special

282 or particular services;

283 b.2. Payments for accumulated sick leave made due to

284 retirement or termination;

285 c.3. Payments for accumulated annual leave ~~in excess of 500~~

286 hours;

287 d.4. ~~Bonuses as defined in subsection (47);~~

288 e.5. Third-party ~~Third party~~ payments made on and after

289 July 1, 1990; or

290 f.6. Fringe benefits, such as ~~(for example,~~ automobile

291 allowances or housing allowances).

292 (b) For service earned on or after July 1, 2011:

293 1. The average final compensation includes all payments

294 defined as compensation under this section.

295 2. The average final compensation does not include:

296 a. Compensation paid to professional persons for special or

297 particular services;

298 b. Payments for accumulated sick leave made due to

299 retirement or termination;

300 c. Payments for accumulated annual leave;

301 d. Overtime payments paid from a salary fund;

302 e. Bonuses;



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303 f. Third-party payments made on and after July 1, 1990; or
304 g. Fringe benefits, such as automobile allowances or
305 housing allowances.

306 (45)

307 (b) Effective July 1, 2001, a 6-year vesting requirement
308 shall be implemented for the ~~defined benefit program of the~~
309 Florida Retirement System's pension plan System. Pursuant
310 ~~thereto:~~

311 1. Any member employed in a regularly established position
312 on July 1, 2001, who completes or has completed a total of 6
313 years of creditable service is ~~shall be considered~~ vested as
314 described in paragraph (a).

315 2. Any member not employed in a regularly established
316 position on July 1, 2001, shall be deemed vested upon completion
317 of 6 years of creditable service if, ~~provided that~~ such member
318 is employed in a covered position for at least 1 work year after
319 July 1, 2001. However, a ~~no~~ member may not ~~shall~~ be required to
320 complete more years of creditable service than would have been
321 required for that member to vest under retirement laws in effect
322 before July 1, 2001.

323 (55) "Benefit" means any pension payment, lump-sum or
324 periodic, to a member, retiree, or beneficiary, based ~~partially~~
325 ~~or entirely~~ on employer and employee contributions as
326 applicable.

327 (59) "Payee" means a retiree or beneficiary of a retiree
328 who has received or is receiving a retirement benefit payment.

329 Section 7. Paragraphs (b), (c), and (d) of subsection (2)
330 of section 121.051, Florida Statutes, are amended, present
331 paragraphs (e) and (f) of that subsection are redesignated as



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332 subsections (f) and (g), respectively, a new subsection (e) is
333 added to that subsection, and subsection (3) of that section is
334 amended, to read:

335 121.051 Participation in the system.—

336 (2) OPTIONAL PARTICIPATION.—

337 (b)1. The governing body of any municipality, metropolitan
338 planning organization, or special district in the state may
339 elect to participate in the Florida Retirement System upon
340 proper application to the administrator and may cover all ~~or any~~
341 of its units as approved by the Secretary of Health and Human
342 Services and the administrator. The department shall adopt rules
343 establishing procedures ~~provisions~~ for the submission of
344 documents necessary for such application. Before ~~Prior to~~ being
345 approved for participation ~~in the Florida Retirement System~~, the
346 governing body of a ~~any such~~ municipality, metropolitan planning
347 organization, or special district that has a local retirement
348 system must ~~shall~~ submit to the administrator a certified
349 financial statement showing the condition of the local
350 retirement system ~~as of a date~~ within 3 months before ~~prior to~~
351 the proposed effective date of membership in the Florida
352 ~~Retirement~~ system. The statement must be certified by a
353 recognized accounting firm that is independent of the local
354 retirement system. All required documents ~~necessary for~~
355 ~~extending Florida Retirement System coverage~~ must be received by
356 the department for consideration at least 15 days before ~~prior~~
357 ~~to~~ the proposed effective date of coverage. If the governing
358 body ~~municipality, metropolitan planning organization, or~~
359 ~~special district~~ does not comply with this requirement, the
360 department may require that the effective date of coverage be



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361 changed.

362 2. A municipality ~~Any city~~, metropolitan planning
363 organization, or special district that has an existing
364 retirement system covering the employees in the units that are
365 to be brought under the Florida Retirement System may
366 participate only after holding a referendum in which all
367 employees in the affected units have the right to participate.
368 Only those employees electing coverage under the Florida
369 Retirement System by affirmative vote in the ~~said~~ referendum are
370 ~~shall be~~ eligible for coverage under this chapter, and those not
371 participating or electing not to be covered by the Florida
372 Retirement System shall remain in their present systems and are
373 ~~shall not be~~ eligible for coverage under this chapter. After the
374 referendum is held, all future employees are ~~shall be~~ compulsory
375 members of the Florida Retirement System.

376 3. At the time of joining the Florida Retirement System,
377 the governing body of a municipality ~~any city~~, metropolitan
378 planning organization, or special district complying with
379 subparagraph 1. may elect to provide, or not provide, benefits
380 based on past service of officers and employees as described in
381 s. 121.081(1). However, if such employer elects to provide past
382 service benefits, such benefits must be provided for all
383 officers and employees of its covered group.

384 4. Once this election is made and approved it may not be
385 revoked, except pursuant to subparagraphs 5. and 6., and all
386 present officers and employees electing coverage ~~under this~~
387 ~~chapter~~ and all future officers and employees are ~~shall be~~
388 compulsory members of the Florida Retirement System.

389 5. Subject to ~~the conditions set forth in~~ subparagraph 6.,



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390 the governing body of a any hospital licensed under chapter 395
391 which is governed by the board of a special district as defined
392 in s. 189.403~~(1)~~ or by the board of trustees of a public health
393 trust created under s. 154.07, hereinafter referred to as
394 "hospital district," and which participates in the Florida
395 Retirement System, may elect to cease participation in the
396 system with regard to future employees in accordance with the
397 following ~~procedure~~:

398 a. No more than 30 days and at least 7 days before
399 adopting a resolution to partially withdraw from the Florida
400 ~~Retirement~~ system and establish an alternative retirement plan
401 for future employees, a public hearing must be held on the
402 proposed withdrawal and proposed alternative plan.

403 b. From 7 to 15 days before such hearing, notice of intent
404 to withdraw, specifying the time and place of the hearing, must
405 be provided in writing to employees of the hospital district
406 proposing partial withdrawal and must be published in a
407 newspaper of general circulation in the area affected, as
408 provided by ss. 50.011-50.031. Proof of publication must ~~of such~~
409 ~~notice shall~~ be submitted to the department ~~of Management~~
410 ~~Services~~.

411 c. The governing body of a any hospital district seeking to
412 partially withdraw from the system must, before such hearing,
413 have an actuarial report prepared and certified by an enrolled
414 actuary, as defined in s. 112.625~~(3)~~, illustrating the cost to
415 the hospital district of providing, through the retirement plan
416 that the hospital district is to adopt, benefits for new
417 employees comparable to those provided under the Florida
418 ~~Retirement~~ system.



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419 d. Upon meeting all applicable requirements of this
420 subparagraph, and subject to ~~the conditions set forth in~~
421 subparagraph 6., partial withdrawal from the system and adoption
422 of the alternative retirement plan may be accomplished by
423 resolution ~~duy~~ adopted by the hospital district board. The
424 hospital district board must provide written notice of such
425 withdrawal to the Division of Retirement by mailing a copy of
426 the resolution to the division, postmarked by ~~no later than~~
427 December 15, 1995. The withdrawal shall take effect January 1,
428 1996.

429 6. Following the adoption of a resolution under sub-
430 subparagraph 5.d., all employees of the withdrawing hospital
431 district who were members of ~~participants in the Florida~~
432 ~~Retirement~~ system before ~~prior to~~ January 1, 1996, shall remain
433 as members of ~~participants in~~ the system for as long as they are
434 employees of the hospital district, and all rights, duties, and
435 obligations between the hospital district, the system, and the
436 employees ~~shall~~ remain in full force and effect. Any employee
437 who is hired or appointed on or after January 1, 1996, may not
438 participate in the ~~Florida Retirement~~ system, and the
439 withdrawing hospital district has ~~shall have~~ no obligation to
440 the system with respect to such employees.

441 (c) Employees of public community colleges or charter
442 technical career centers sponsored by public community colleges,
443 designated in s. 1000.21(3), who are members of the Regular
444 Class of the Florida Retirement System and who comply with the
445 criteria set forth in this paragraph and s. 1012.875 may, in
446 lieu of participating in the Florida Retirement System, elect to
447 withdraw from the system altogether and participate in the State



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448 Community College System Optional Retirement Program provided by
449 the employing agency under s. 1012.875.

450 1. Through June 30, 2001, the cost to the employer for a
451 benefit under the optional retirement program ~~such annuity~~
452 equals the normal cost portion of the employer retirement
453 contribution which would be required if the employee were a
454 member of the Regular Class pension plan ~~defined benefit~~
455 ~~program~~, plus the portion of the contribution rate required by
456 s. 112.363(8) which would otherwise be assigned to the Retiree
457 Health Insurance Subsidy Trust Fund. Effective July 1, 2001,
458 each employer shall contribute on behalf of each member of
459 ~~participant in~~ the optional program an amount equal to 10.43
460 percent of the employee's ~~participant's~~ gross monthly
461 compensation. The employer shall deduct an amount for the
462 administration of the program. The employer shall contribute an
463 additional amount to the Florida Retirement System Trust Fund
464 equal to the unfunded actuarial accrued liability portion of the
465 Regular Class contribution rate.

466 2. The decision to participate in the ~~an~~ optional
467 retirement program is irrevocable as long as the employee holds
468 a position eligible for participation, except as provided in
469 subparagraph 3. Any service creditable under the Florida
470 Retirement System is retained after the member withdraws from
471 the system; however, additional service credit in the system may
472 not be earned while a member of the optional retirement program.

473 3. An employee who has elected to participate in the
474 optional retirement program shall have one opportunity, at the
475 employee's discretion, to transfer from the optional retirement
476 program to the ~~defined benefit program of the~~ Florida Retirement



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477 System's pension plan ~~System~~ or to the investment plan
478 established under part II of this chapter ~~Public Employee~~
479 ~~Optional Retirement Program~~, subject to the terms of the
480 applicable optional retirement program contracts.

481 a. If the employee chooses to move to the investment plan
482 ~~Public Employee Optional Retirement~~ program, any contributions,
483 interest, and earnings creditable to the employee under the
484 ~~State Community College System~~ optional retirement program are
485 retained by the employee in the ~~State Community College System~~
486 optional retirement program, and the applicable provisions of s.
487 121.4501(4) govern the election.

488 b. If the employee chooses to move to the pension plan
489 ~~defined benefit program of the Florida Retirement System~~, the
490 employee shall receive service credit equal to his or her years
491 of service under the ~~State Community College System~~ optional
492 retirement program.

493 (I) The cost for such credit is the amount representing the
494 present value of the employee's accumulated benefit obligation
495 for the affected period of service. The cost shall be calculated
496 as if the benefit commencement occurs on the first date the
497 employee becomes eligible for unreduced benefits, using the
498 discount rate and other relevant actuarial assumptions that were
499 used to value the pension ~~Florida Retirement System defined~~
500 ~~benefit~~ plan liabilities in the most recent actuarial valuation.
501 The calculation must include any service already maintained
502 under the pension ~~defined benefit~~ plan in addition to the years
503 under the ~~State Community College System~~ optional retirement
504 program. The present value of any service already maintained
505 must be applied as a credit to total cost resulting from the



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506 calculation. The division shall ensure that the transfer sum is
507 prepared using a formula and methodology certified by an
508 enrolled actuary.

509 (II) The employee must transfer from his or her ~~State~~
510 ~~Community College System~~ optional retirement program account and
511 from other employee moneys as necessary, a sum representing the
512 present value of the employee's accumulated benefit obligation
513 immediately following the time of such movement, determined
514 assuming that attained service equals the sum of service in the
515 pension plan ~~defined benefit program~~ and service in the ~~State~~
516 ~~Community College System~~ optional retirement program.

517 4. Participation in the optional retirement program is
518 limited to employees who satisfy the following eligibility
519 criteria:

520 a. The employee is ~~must be~~ otherwise eligible for
521 membership or renewed membership in the Regular Class of the
522 Florida Retirement System, as provided in s. 121.021(11) and
523 (12) or s. 121.122.

524 b. The employee is ~~must be~~ employed in a full-time position
525 classified in the Accounting Manual for Florida's Public
526 Community Colleges as:

527 (I) Instructional; or

528 (II) Executive Management, Instructional Management, or
529 Institutional Management and the, ~~if a~~ community college
530 determines that recruiting to fill a vacancy in the position is
531 to be conducted in the national or regional market, and the
532 duties and responsibilities of the position include the
533 formulation, interpretation, or implementation of policies, or
534 the performance of functions that are unique or specialized



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535 within higher education and that frequently support the mission
536 of the community college.

537 c. The employee is ~~must be~~ employed in a position not
538 included in the Senior Management Service Class of the Florida
539 Retirement System, as described in s. 121.055.

540 5. Members of Participants ~~in~~ the program are subject to
541 the same reemployment limitations, renewed membership
542 provisions, and forfeiture provisions ~~as are~~ applicable to
543 regular members of the Florida Retirement System under ss.
544 121.091(9), 121.122, and 121.091(5), respectively. A member
545 ~~participant~~ who receives a program distribution funded by
546 employer contributions is ~~shall be~~ deemed to be retired from a
547 state-administered retirement system if the retiree ~~participant~~
548 is subsequently employed with an employer that participates in
549 the Florida Retirement System.

550 6. Eligible community college employees are compulsory
551 members of the Florida Retirement System until, pursuant to s.
552 1012.875, a written election to withdraw from the system and
553 participate in the ~~State Community College System~~ optional
554 retirement program is filed with the program administrator and
555 received by the division.

556 a. A community college employee whose program eligibility
557 results from initial employment shall ~~must~~ be enrolled in the
558 ~~State Community College System~~ optional retirement program
559 retroactive to the first day of eligible employment. The
560 employer retirement contributions paid through the month of the
561 employee plan change shall be transferred to the community
562 college to the employee's optional program account, and,
563 effective the first day of the next month, the employer shall



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564 pay the applicable contributions based upon subparagraph 1.

565 b. A community college employee whose program eligibility
566 is due to the subsequent designation of the employee's position
567 as one of those specified in subparagraph 4., or due to the
568 employee's appointment, promotion, transfer, or reclassification
569 to a position specified in subparagraph 4., must be enrolled in
570 the program on the first day of the first full calendar month
571 that such change in status becomes effective. The employer
572 retirement contributions paid from the effective date through
573 the month of the employee plan change must be transferred to the
574 community college to the employee's optional program account,
575 and, effective the first day of the next month, the employer
576 shall pay the applicable contributions based upon subparagraph
577 1.

578 7. Effective July 1, 2003, through December 31, 2008, any
579 member participant of the ~~State Community College System~~
580 optional retirement program who has service credit in the
581 pension defined benefit plan of the Florida Retirement System
582 for the period between his or her first eligibility to transfer
583 from the pension defined benefit plan to the optional retirement
584 program and the actual date of transfer may, during employment,
585 transfer to the optional retirement program a sum representing
586 the present value of the accumulated benefit obligation under
587 the pension plan defined benefit retirement program for the
588 period of service credit. Upon transfer, all service credit
589 previously earned under the pension plan defined benefit program
590 ~~of the Florida Retirement System~~ during this period is nullified
591 for purposes of entitlement to a future benefit under the
592 pension plan defined benefit program of the Florida Retirement



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593 ~~System.~~

594 (d) The governing body of a charter school or a charter
595 technical career center may elect to participate in the system
596 upon proper application to the administrator and shall cover its
597 units as approved by the Secretary of Health and Human Services
598 and the administrator. At the time of joining the Florida
599 Retirement System, but before July 1, 2011, the governing body
600 of the charter school may elect to provide, or not provide,
601 benefits based on the past service of officers and employees as
602 described in s. 121.081(1). Once this election is made and
603 approved, it may not be revoked, and all present officers and
604 employees selecting coverage under this chapter and all future
605 officers and employees shall be compulsory members of the
606 Florida Retirement System.

607 (e) All eligible employees initially enrolled on or after
608 July 1, 2011, except those who are eligible to and elect to
609 enroll in an optional retirement program established under s.
610 121.055(6), s. 121.35, or s. 1012.875, become compulsory members
611 of the investment plan and membership in the pension plan is not
612 permitted. Employees initially enrolled on or after July 1,
613 2011, may not use the election opportunity specified in s.
614 121.4501(4)(e).

615 (3) SOCIAL SECURITY COVERAGE.—Social security coverage
616 shall be provided for all officers and employees who become
617 members under ~~the provisions of~~ subsection (1) or subsection
618 (2). Any modification of the present agreement with the Social
619 Security Administration, or referendum required under the Social
620 Security Act, for the purpose of providing social security
621 coverage for any member shall be requested by the state agency



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622 in compliance with the applicable provisions of the Social
623 Security Act governing such coverage. However, retroactive
624 social security coverage for service ~~prior to December 1, 1970,~~
625 with the employer before December 1, 1970, may ~~shall~~ not be
626 provided for a ~~any~~ member who was not covered under the
627 agreement as of November 30, 1970.

628 Section 8. Paragraph (b) of subsection (5), paragraph (a)
629 of subsection (7), and paragraph (c) of subsection (9) of
630 section 121.0515, Florida Statutes, are amended to read:

631 121.0515 Special risk membership.—

632 (5) CREDIT FOR PAST SERVICE.—A special risk member may
633 purchase retirement credit in the Special Risk Class based upon
634 past service, and may upgrade retirement credit for such past
635 service, to the extent of 2 percent of the member's average
636 monthly compensation as specified in s. 121.091(1)(a) for such
637 service as follows:

638 (b) Contributions for upgrading the additional special risk
639 credit are pursuant to this subsection shall be equal to the
640 difference in the employer and, if applicable, employee
641 contributions paid and the special risk percentage rate of gross
642 salary in effect at the time of purchase for the period being
643 claimed, plus interest thereon at the rate of 4 percent a year
644 compounded annually from the date of such service until July 1,
645 1975, and 6.5 percent a year thereafter until the date of
646 payment. ~~This~~ Past service may be purchased by the member or by
647 the employer on behalf of the member.

648 (7) RETENTION OF SPECIAL RISK NORMAL RETIREMENT DATE.—

649 (a) A special risk member who is moved or reassigned to a
650 nonspecial risk law enforcement, firefighting, correctional, or



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651 emergency medical care administrative support position within
652 ~~with~~ the same agency, or who is subsequently employed in such a
653 position with any law enforcement, firefighting, correctional,
654 or emergency medical care agency under the Florida Retirement
655 System, shall participate in the Special Risk Administrative
656 Support Class and ~~shall~~ earn credit for such service at the same
657 percentage rate as that earned by a regular member.
658 Notwithstanding ~~the provisions of~~ subsection (4), service in
659 ~~such~~ an administrative support position ~~shall~~, for purposes of
660 s. 121.091, applies ~~apply~~ toward satisfaction of the special
661 risk normal retirement date, as defined in s. 121.021(29)(b) if,
662 ~~provided that~~, while in such position, the member remains
663 certified as a law enforcement officer, firefighter,
664 correctional officer, emergency medical technician, or
665 paramedic; remains subject to reassignment at any time to a
666 position qualifying for special risk membership; and completes
667 an aggregate of 6 or more years of service as a designated
668 special risk member before ~~prior to~~ retirement.

669 (9) CREDIT FOR UPGRADED SERVICE.—

670 (c) Any member of the Special Risk Class who has earned
671 creditable service in another membership class of the Florida
672 Retirement System in a position with the Department of Law
673 Enforcement or the Division of State Fire Marshal and became
674 covered by the Special Risk Class as described in paragraph
675 (2) (i), or with a local government law enforcement agency or
676 medical examiner's office and became covered by the Special Risk
677 Class as described in paragraph (2) (j), which service is within
678 the purview of the Special Risk Class, and is employed in such
679 position on or after July 1, 2008, may purchase additional



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680 retirement credit to upgrade such service to Special Risk Class
681 service, to the extent of the percentages of the member's
682 average final compensation provided in s. 121.091(1)(a)2. The
683 cost for such credit must ~~shall~~ be an amount representing the
684 actuarial accrued liability for the difference in accrual value
685 during the affected period of service. The cost shall be
686 calculated using the discount rate and other relevant actuarial
687 assumptions that were used to value the Florida Retirement
688 System's pension System ~~defined benefit~~ plan liabilities in the
689 most recent actuarial valuation. The Division of Retirement
690 shall ensure that the transfer sum is prepared using a formula
691 and methodology certified by an enrolled actuary. The cost must
692 be paid immediately upon notification by the division. The local
693 government employer may purchase the upgraded service credit on
694 behalf of the member if the member has been employed by that
695 employer for at least 3 years.

696 Section 9. Paragraphs (a) and (d) of subsection (4) and
697 paragraph (b) of subsection (7) of section 121.052, Florida
698 Statutes, are amended, present paragraph (c) of subsection (7)
699 of that section is redesignated as paragraph (d), a new
700 paragraph (c) is added to that subsection, and subsection (8) of
701 that section is amended, to read:

702 121.052 Membership class of elected officers.—

703 (4) PARTICIPATION BY ELECTED OFFICERS SERVING A SHORTENED
704 TERM DUE TO APPORTIONMENT, FEDERAL INTERVENTION, ETC.—

705 (a) An ~~Any~~ ~~duly~~ elected officer whose term of office was
706 shortened by legislative or judicial apportionment pursuant to
707 ~~the provisions of~~ s. 16, Art. III of the State Constitution may,
708 after the term of office to which he or she was elected is



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709 completed, pay into the Florida Retirement System Trust Fund the
710 amount of contributions that would have been made by the officer
711 or the officer's employer on his or her behalf, plus 4 percent
712 interest compounded annually from the date he or she left office
713 until July 1, 1975, and 6.5 percent interest compounded annually
714 thereafter, and may receive service credit for the length of
715 time the officer would have served if such term had not been
716 shortened by apportionment.

717 (d)1. Any justice or judge, or any retired justice or judge
718 who retired before July 1, 1993, who has attained the age of 70
719 years and who is prevented under s. 8, Art. V of the State
720 Constitution from completing his or her term of office because
721 of age may elect to purchase credit for all or a portion of the
722 months he or she would have served during the remainder of the
723 term of office; however, ~~but~~ he or she may claim those months
724 only after the date the service would have occurred. The justice
725 or judge must pay into the Florida Retirement System Trust Fund
726 the amount of contributions that would have been made by the
727 employer on his or her behalf for the period of time being
728 claimed, plus 6.5 percent interest thereon compounded each June
729 30 from the date he or she left office, in order to receive
730 service credit in this class for the period of time being
731 claimed. After the date the service would have occurred, and
732 upon payment of the required contributions, the retirement
733 benefit of a retired justice or judge shall ~~will~~ be adjusted
734 prospectively to include the ~~this~~ additional creditable service;
735 however, such adjustment may be made only once.

736 2. Any justice or judge who does not seek election to a
737 subsequent term of office because he or she would be prevented



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738 under s. 8, Art. V of the State Constitution from completing
739 such term of office upon attaining the age of 70 years may elect
740 to purchase service credit for service as a temporary judge as
741 assigned by the court if the temporary assignment ~~follows~~
742 immediately follows the last full term of office served and the
743 purchase is limited to the number of months of service needed to
744 vest retirement benefits. To receive retirement credit for ~~such~~
745 temporary service beyond termination, the justice or judge must
746 pay into the Florida Retirement System Trust Fund the amount of
747 contributions that would have been made by the justice or judge
748 and the employer on his or her behalf had he or she continued in
749 office for the period of time being claimed, plus 6.5 percent
750 interest thereon compounded each June 30 from the date he or she
751 left office.

752 (7) CONTRIBUTIONS.—

753 (b) The employer paying the salary of a member of the
754 Elected Officers' Class shall contribute an amount as specified
755 in this subsection or s. 121.71, as appropriate, which shall
756 constitute the ~~entire~~ employer retirement contribution with
757 respect to such member. The employer shall also withhold one-
758 half of the entire contribution of the member required for
759 social security coverage. Effective July 1, 2011, members of the
760 Elected Officers' Class shall pay retirement contributions as
761 specified in s. 121.71.

762 (c) If a member of the Elected Officers' Class ceases to
763 fill an office covered by this class for 3 calendar months for
764 any reason other than retirement and has not been employed in
765 any capacity with any participating employer for 3 calendar
766 months, the member is entitled to receive a refund of all



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767 contributions he or she made to the pension plan, subject to the
768 restrictions otherwise provided in this chapter. Partial refunds
769 are not permitted. The refund may not include any interest
770 earnings on contributions to the pension plan. Employer
771 contributions made on behalf of the member are not refundable. A
772 member may not receive a refund of employee contributions if a
773 pending or an approved qualified domestic relations order is
774 filed against the member's retirement account. By obtaining a
775 refund of contributions, a member waives all rights under the
776 Florida Retirement System, including the health insurance
777 subsidy under this subsection, to the service credit represented
778 by the refunded contributions, except the right to purchase
779 prior service credit in accordance with s. 121.081(2).

780 (8) NORMAL RETIREMENT DATE; VESTING REQUIREMENT.—A member
781 of the Elected Officers' Class has ~~shall have~~ the same normal
782 retirement date as defined in s. 121.021(29) for a member of the
783 regular class of the Florida Retirement System. A ~~Any~~ public
784 service commissioner who was removed from the Elected State
785 Officers' Class on July 1, 1979, after attaining at least 8
786 years of creditable service in that class is ~~shall be~~ considered
787 to have reached the normal retirement date upon attaining the
788 required age as provided ~~62 as required~~ in s. 121.021(29)(a).

789 Section 10. Paragraph (a) of subsection (7) of section
790 121.053, Florida Statutes, is amended to read:

791 121.053 Participation in the Elected Officers' Class for
792 retired members.—

793 (7) A member who is elected or appointed to an elective
794 office and who is participating in the Deferred Retirement
795 Option Program is not subject to termination as defined in s.



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796 121.021, or reemployment limitations as provided in s.
797 121.091(9), until the end of his or her current term of office
798 or, if the officer is consecutively elected or reelected to an
799 elective office eligible for coverage under the Florida
800 Retirement System, until he or she no longer holds an elective
801 office, as follows:

802 (a) At the end of the 60-month DROP period:

803 1. The officer's DROP account may not accrue additional
804 monthly benefits, but does continue to earn interest as provided
805 in s. 121.091(13). However, an officer whose DROP participation
806 begins on or after July 1, 2010, may not continue to earn such
807 interest.

808 2. Retirement contributions are not required of the officer
809 or the employer of the elected officer and additional retirement
810 credit may not be earned under the Florida Retirement System.

811 Section 11. Paragraphs (b) and (j) of subsection (1),
812 paragraph (b) of subsection (3), and paragraphs (c), (d), and
813 (e) of subsection (6) of section 121.055, Florida Statutes, are
814 amended, present paragraph (c) of subsection (3) of that section
815 is redesignated as paragraph (d), and a new paragraph (c) is
816 added to that subsection, to read:

817 121.055 Senior Management Service Class.—There is hereby
818 established a separate class of membership within the Florida
819 Retirement System to be known as the "Senior Management Service
820 Class," which shall become effective February 1, 1987.

821 (1)

822 (b)1. Except as provided in subparagraph 2., effective
823 January 1, 1990, participation in the Senior Management Service
824 Class is shall be compulsory for the president of each community



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825 college, the manager of each participating city or county, and
826 all appointed district school superintendents. Effective January
827 1, 1994, additional positions may be designated for inclusion in
828 the Senior Management Service Class if ~~of the Florida Retirement~~
829 ~~System, provided that:~~

830 a. Positions to be included in the class are ~~shall be~~
831 designated by the local agency employer. Notice of intent to
832 designate positions for inclusion in the class must ~~shall~~ be
833 published once a week for 2 consecutive weeks in a newspaper of
834 general circulation published in the county or counties
835 affected, as provided under ~~in~~ chapter 50.

836 b. Up to 10 nonelective full-time positions may be
837 designated for each local agency employer reporting to the
838 department ~~of Management Services~~; for local agencies with 100
839 or more regularly established positions, additional nonelective
840 full-time positions may be designated, up to ~~not to exceed~~ 1
841 percent of the regularly established positions within the
842 agency.

843 c. Each position added to the class must be a managerial or
844 policymaking position filled by an employee who is not subject
845 to continuing contract and serves at the pleasure of the local
846 agency employer without civil service protection, and who:

847 (I) Heads an organizational unit; or

848 (II) Has responsibility to effect or recommend personnel,
849 budget, expenditure, or policy decisions in his or her areas of
850 responsibility.

851 2. In lieu of participation in the Senior Management
852 Service Class, members of the ~~Senior Management Service class,~~
853 pursuant to ~~the provisions of~~ subparagraph 1., may withdraw from



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854 the Florida Retirement System altogether. The decision to
855 withdraw from the ~~Florida Retirement~~ system is shall be
856 irrevocable ~~for~~ as long as the employee holds the such a
857 position. Any service creditable under the Senior Management
858 Service Class shall be retained after the member withdraws from
859 the ~~Florida Retirement~~ system; however, additional service
860 credit in the Senior Management Service Class may shall not be
861 earned after such withdrawal. Such members are shall not be
862 eligible to participate in the Senior Management Service
863 Optional Annuity Program.

864 3. Effective January 1, 2006, through June 30, 2006, an
865 employee who has withdrawn from the Florida Retirement System
866 under subparagraph 2. has one opportunity to elect to
867 participate in ~~either~~ the pension plan or investment plan
868 ~~defined benefit program or the Public Employee Optional~~
869 ~~Retirement Program~~ of the Florida Retirement System.

870 a. If the employee elects to participate in the investment
871 plan ~~Public Employee Optional Retirement Program~~, membership is
872 ~~shall be~~ prospective, and the applicable provisions of s.
873 121.4501(4) shall govern the election.

874 b. If the employee elects to participate in the pension
875 plan ~~defined benefit program of the Florida Retirement System~~,
876 the employee shall, upon payment to the system trust fund of the
877 amount calculated under sub-sub-subparagraph (I), receive
878 service credit for prior service based upon the time during
879 which the employee had withdrawn from the system.

880 (I) The cost for such credit shall be an amount
881 representing the actuarial accrued liability for the affected
882 period of service. The cost shall be calculated using the



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883 discount rate and other relevant actuarial assumptions that were
884 used to value pension ~~the Florida Retirement System defined~~
885 ~~benefit~~ plan liabilities in the most recent actuarial valuation.
886 The calculation must ~~shall~~ include any service already
887 maintained under the pension ~~defined benefit~~ plan in addition to
888 the period of withdrawal. The actuarial accrued liability
889 attributable to any service already maintained under the pension
890 ~~defined benefit~~ plan shall be applied as a credit to the total
891 cost resulting from the calculation. The division must ~~shall~~
892 ensure that the transfer sum is prepared using a formula and
893 methodology certified by an actuary.

894 (II) The employee must transfer a sum representing the net
895 cost owed for the actuarial accrued liability in sub-sub-
896 subparagraph (I) immediately following the time of such
897 movement, determined assuming that attained service equals the
898 sum of service in the pension plan ~~defined benefit program~~ and
899 the period of withdrawal.

900 (j) Except as may otherwise be provided, a ~~any~~ member of
901 the Senior Management Service Class may purchase additional
902 retirement credit in such class for creditable service within
903 the purview of the Senior Management Service Class retroactive
904 to February 1, 1987, and may upgrade retirement credit for such
905 service, to the extent of 2 percent of the member's average
906 monthly compensation as specified in paragraph (4) (d) for such
907 service. Contributions for upgrading ~~the~~ additional Senior
908 Management Service credit are ~~pursuant to this paragraph shall~~
909 ~~be~~ equal to the difference in the employer and, if applicable,
910 employee contributions paid and the Senior Management Service
911 Class contribution rate as a percentage of gross salary in



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912 effect for the period being claimed, plus interest thereon at
913 the rate of 6.5 percent a year, compounded annually until the
914 date of payment. ~~The This~~ service credit may be purchased by the
915 employer on behalf of the member.

916 (3)

917 (b) The employer or member of the Senior Management Service
918 Class, as applicable, paying the salary of a member of the
919 Senior Management Service Class shall contribute an amount as
920 specified in this section or s. 121.71, as appropriate, which
921 shall constitute the entire ~~employer~~ retirement contribution
922 with respect to such member. The employer shall also withhold
923 one-half of the entire contribution of the member required for
924 social security coverage. Effective July 1, 2011, each member
925 shall pay employee contributions as specified in s. 121.71.

926 (c) Three months after termination of employment from all
927 participating of employers for any reason other than retirement,
928 a member is entitled to a refund of all contributions he or she
929 made before or after participation in the noncontributory plan,
930 subject to the restrictions otherwise provided in this chapter.
931 Employer contributions made on behalf of the member are not
932 refundable. The refund may not include any interest earnings on
933 the contributions to the pension plan. A member may not receive
934 a refund of employee contributions if a pending or an approved
935 qualified domestic relations order is filed against the member's
936 retirement account. By obtaining a refund of contributions, a
937 member waives all rights under the Florida Retirement System,
938 including the health insurance subsidy under paragraph (d), to
939 the service credit represented by the refunded contributions,
940 except the right to purchase his or her prior service credit in



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941 accordance with s. 121.081(2).

942 (6)

943 (c) *Participation.*—

944 1. An eligible employee who is employed on or before
945 February 1, 1987, may elect to participate in the optional
946 annuity program in lieu of participating ~~participation~~ in the
947 Senior Management Service Class. Such election must be made in
948 writing and filed with the department and the personnel officer
949 of the employer on or before May 1, 1987. An eligible employee
950 who is employed on or before February 1, 1987, and who fails to
951 make an election to participate in the optional annuity program
952 by May 1, 1987, shall be deemed to have elected membership in
953 the Senior Management Service Class.

954 2. Except as provided in subparagraph 6., an employee who
955 becomes eligible to participate in the optional annuity program
956 by reason of initial employment commencing after February 1,
957 1987, may, within 90 days after the date of commencing
958 employment, elect to participate in the optional annuity
959 program. Such election must be made in writing and filed with
960 the personnel officer of the employer. An eligible employee who
961 does not within 90 days after commencing employment elect to
962 participate in the optional annuity program shall be deemed to
963 have elected membership in the Senior Management Service Class.

964 3. A person who is appointed to a position in the Senior
965 Management Service Class and who is a member of an existing
966 retirement system or the Special Risk or Special Risk
967 Administrative Support Classes of the Florida Retirement System
968 may elect to remain in such system or class in lieu of
969 participating ~~participation~~ in the Senior Management Service



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970 Class or optional annuity program. Such election must be made in
971 writing and filed with the department and the personnel officer
972 of the employer within 90 days after ~~of~~ such appointment. An ~~Any~~
973 eligible employee who fails to make an election to participate
974 in the existing system, the Special Risk Class of the Florida
975 Retirement System, the Special Risk Administrative Support Class
976 of the Florida Retirement System, or the optional annuity
977 program shall be deemed to have elected membership in the Senior
978 Management Service Class.

979 4. Except as provided in subparagraph 5., an employee's
980 election to participate in the optional annuity program is
981 irrevocable if the employee continues to be employed in an
982 eligible position and continues to meet the eligibility
983 requirements set forth in this paragraph.

984 5. Effective from July 1, 2002, through September 30, 2002,
985 an ~~any~~ active employee in a regularly established position who
986 has elected to participate in the Senior Management Service
987 Optional Annuity Program has one opportunity to choose to move
988 from the Senior Management Service Optional Annuity Program to
989 the Florida Retirement System's pension plan ~~System-defined~~
990 ~~benefit program~~.

991 a. The election must be made in writing and must be filed
992 with the department and the personnel officer of the employer
993 before October 1, 2002, or, in the case of an active employee
994 who is on a leave of absence on July 1, 2002, within 90 days
995 after the conclusion of the leave of absence. This election is
996 irrevocable.

997 b. The employee shall receive service credit under the
998 pension plan ~~defined benefit program of the Florida Retirement~~



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999 ~~System~~ equal to his or her years of service under the Senior
1000 Management Service Optional Annuity Program. The cost for such
1001 credit is the amount representing the present value of that
1002 employee's accumulated benefit obligation for the affected
1003 period of service.

1004 c. The employee must transfer the total accumulated
1005 employer contributions and earnings on deposit in his or her
1006 Senior Management Service Optional Annuity Program account. If
1007 the transferred amount is not sufficient to pay the amount due,
1008 the employee must pay a sum representing the remainder of the
1009 amount due. The employee may not retain any employer
1010 contributions or earnings ~~thereon~~ from the Senior Management
1011 Service Optional Annuity Program account.

1012 6. A retiree of a state-administered retirement system who
1013 is initially reemployed on or after July 1, 2010, may not renew
1014 membership in the Senior Management Service Optional Annuity
1015 Program.

1016 (d) *Contributions.*—

1017 1.a. Through June 30, 2001, each employer shall contribute
1018 on behalf of each member of participant ~~in~~ the Senior Management
1019 Service Optional Annuity Program an amount equal to the normal
1020 cost portion of the employer retirement contribution which would
1021 be required if the employee participant were a Senior Management
1022 Service Class member of the Florida Retirement System's pension
1023 plan ~~System defined benefit program~~, plus the portion of the
1024 contribution rate required in s. 112.363(8) which ~~that~~ would
1025 otherwise be assigned to the Retiree Health Insurance Subsidy
1026 Trust Fund.

1027 b. Effective July 1, 2001, each employer shall contribute



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1028 on behalf of each member of participant in the optional annuity
1029 program an amount equal to 12.49 percent of the employee's
1030 participant's gross monthly compensation.

1031 c. Effective July 1, 2011, each member of the optional
1032 annuity program shall contribute an amount equal to the employee
1033 contribution required in s. 121.71(3). The employer shall
1034 contribute on behalf of each such employee an amount equal to
1035 the difference between 12.49 percent of the employee's gross
1036 monthly compensation and the amount equal to the employee's
1037 required contribution based on the employee's gross monthly
1038 compensation.

1039 d. The department shall deduct an amount approved by the
1040 Legislature to provide for the administration of this program.
1041 The Payment of the contributions, including contributions made
1042 by the employee, to the optional program which is required by
1043 this subparagraph for each participant shall be made by the
1044 employer to the department, which shall forward the
1045 contributions to the designated company or companies contracting
1046 for payment of benefits for members of the participant under the
1047 optional annuity program. The department shall deduct an amount
1048 approved by the Legislature to provide for the administration of
1049 the program.

1050 2. Each employer shall contribute on behalf of each member
1051 of participant in the Senior Management Service Optional Annuity
1052 Program an amount equal to the unfunded actuarial accrued
1053 liability portion of the employer contribution which would be
1054 required for members of the Senior Management Service Class in
1055 the Florida Retirement System. This contribution shall be paid
1056 to the department for transfer to the Florida Retirement System



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1057 Trust Fund.

1058 3. An Optional Annuity Program Trust Fund shall be
1059 established in the State Treasury and administered by the
1060 department to make payments to provider companies on behalf of
1061 the optional annuity program members ~~participants~~, and to
1062 transfer the unfunded liability portion of the state optional
1063 annuity program contributions to the Florida Retirement System
1064 Trust Fund.

1065 4. Contributions required for social security by each
1066 employer and each employee ~~participant~~, in the amount required
1067 for social security coverage as now or hereafter may be provided
1068 by the federal Social Security Act, shall be maintained for each
1069 member of ~~participant in~~ the Senior Management Service
1070 retirement program and are ~~shall be~~ in addition to the
1071 retirement contributions specified in this paragraph.

1072 5. Each member of ~~participant in~~ the ~~Senior Management~~
1073 ~~Service~~ optional annuity program may contribute by way of salary
1074 reduction or deduction a percentage amount of the employee's
1075 ~~participant's~~ gross compensation not to exceed the percentage
1076 amount contributed by the employer to the optional annuity
1077 program. Payment of the employee's ~~participant's~~ contributions
1078 shall be made by the employer to the department, which shall
1079 forward the contributions to the designated company or companies
1080 contracting for payment of benefits for member's ~~the participant~~
1081 under the program.

1082 (e) *Benefits.*—

1083 1. Benefits under the Senior Management Service Optional
1084 Annuity Program are payable only to members of ~~participants in~~
1085 the program, or their beneficiaries as designated by the member



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1086 ~~participant~~ in the contract with the provider company, and must
1087 be paid by the designated company in accordance with the terms
1088 of the annuity contract applicable to the member ~~participant~~. A
1089 member ~~participant~~ must be terminated from all employment
1090 relationships with Florida Retirement System employers as
1091 provided in s. 121.021(39) to begin receiving the employer-
1092 funded benefit. Benefits funded by employer contributions are
1093 payable under the terms of the contract to the member
1094 ~~participant~~, his or her beneficiary, or his or her estate, in
1095 addition to:

1096 a. A lump-sum payment to the beneficiary upon the death of
1097 the member ~~participant~~;

1098 b. A cash-out of a de minimis account upon the request of a
1099 former member ~~participant~~ who has been terminated for a minimum
1100 of 6 calendar months from the employment that entitled him or
1101 her to optional annuity program participation. Such cash-out
1102 must be a complete liquidation of the account balance with that
1103 company and is subject to the Internal Revenue Code;

1104 c. A mandatory distribution of a de minimis account of a
1105 former member ~~participant~~ who has been terminated for a minimum
1106 of 6 calendar months from the employment that entitled him or
1107 her to optional annuity program participation as authorized by
1108 the department; or

1109 d. A lump-sum direct rollover distribution whereby all
1110 accrued benefits, plus interest and investment earnings, are
1111 paid from the member's ~~participant's~~ account directly to the
1112 custodian of an eligible retirement plan, as defined in s.
1113 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
1114 member ~~participant~~.



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1115 2. The benefits payable to any person under the ~~Senior~~
1116 ~~Management Service~~ optional annuity program, and any
1117 contribution accumulated under such program, are not subject to
1118 assignment, execution, or attachment or to any legal process
1119 ~~whatsoever~~.

1120 3. Except as provided in subparagraph 4., a member
1121 ~~participant~~ who terminates employment and receives a
1122 distribution, including a rollover or trustee-to-trustee
1123 transfer, funded by employer or employee contributions is ~~shall~~
1124 ~~be~~ deemed to be retired from a state-administered retirement
1125 system if the retiree ~~participant~~ is subsequently employed with
1126 an employer that participates in the Florida Retirement System.

1127 4. A member ~~participant~~ who receives optional annuity
1128 program benefits funded by employer or employee contributions as
1129 a mandatory distribution of a de minimis account authorized by
1130 the department is not considered a retiree.

1131
1132 As used in this paragraph, a "de minimis account" means an
1133 account with a provider company containing employer or employee
1134 contributions and accumulated earnings of not more than \$5,000
1135 made under this chapter.

1136 Section 12. Subsections (2) and (5) and paragraph (c) of
1137 subsection (6) of section 121.071, Florida Statutes, are
1138 amended, present paragraph (d) of subsection (6) of that section
1139 is redesignated as paragraph (e), and a new paragraph (d) is
1140 added to that subsection, to read:

1141 121.071 Contributions.—Contributions to the system shall be
1142 made as follows:

1143 (2) (a) Effective January 1, 1975, or October 1, 1975, as



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1144 applicable, and through June 30, 2011, each employer shall make
1145 ~~accomplish~~ the contribution required by subsection (1) by a
1146 procedure in which no employee's gross salary is ~~shall be~~
1147 reduced. Effective July 1, 2011, each employee, and his or her
1148 employer, shall pay retirement contributions as specified in s.
1149 121.71.

1150 (b) Three calendar months after ~~Upon~~ termination of
1151 employment from all participating employers for any reason other
1152 than retirement, a member is ~~shall be~~ entitled to a full refund
1153 of the contributions he or she ~~has~~ made before or after ~~prior or~~
1154 ~~subsequent to~~ participation in the noncontributory plan, subject
1155 to ~~the~~ restrictions otherwise provided in this chapter. Partial
1156 refunds are not permitted. Employer contributions made on behalf
1157 of the member are not refundable. The refund may not include
1158 interest earnings on contributions for a member of the pension
1159 plan. A member may not receive a refund of employee
1160 contributions if a pending or approved qualified domestic
1161 relations order is filed against his or her retirement account.
1162 By obtaining a refund of contributions, a member waives all
1163 rights under the Florida Retirement System and the health
1164 insurance subsidy to the service credit represented by the
1165 refunded contributions, except the right to purchase his or her
1166 prior service credit in accordance with s. 121.081(2).

1167 (5) Contributions made in accordance with subsections (1),
1168 (2), (3), and (4), and s. 121.71 shall be paid ~~by the employer~~
1169 into the system trust funds in accordance with rules adopted by
1170 the administrator pursuant to chapter 120, except as ~~may be~~
1171 otherwise specified herein. Effective July 1, 2002,
1172 contributions paid under subsections (1) and (4) and



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1173 accompanying payroll data are due and payable by ~~no later than~~
1174 the 5th working day of the month immediately following the month
1175 during which the payroll period ended.

1176 (6)

1177 (c) By obtaining a refund of contributions, a member waives
1178 all rights under the Florida Retirement System, including the
1179 health insurance subsidy under subsection (4), to the service
1180 credit represented by the refunded contributions, except the
1181 right to purchase his or her prior service credit in accordance
1182 with s. 121.081(2).

1183 (d) If a member or former member of the pension plan
1184 receives an invalid refund from the Florida Retirement System
1185 Trust Fund, such person must repay the full amount of the
1186 refund, plus interest at 6.5 percent compounded annually on each
1187 June 30 from the date of refund until full repayment is made.
1188 The invalid refund must be repaid before the member retires or,
1189 if applicable, transfers to the investment plan.

1190 Section 13. Paragraphs (b) and (c) of subsection (1) and
1191 subsection (2) of section 121.081, Florida Statutes, are amended
1192 to read:

1193 121.081 Past service; prior service; contributions.—
1194 Conditions under which past service or prior service may be
1195 claimed and credited are:

1196 (1)

1197 (b) Past service earned after January 1, 1975, may be
1198 claimed by officers or employees of a municipality, metropolitan
1199 planning organization, charter school, charter technical career
1200 center, or special district who become a covered group under
1201 this system. The governing body of a covered group may elect to



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1202 provide benefits for past service earned after January 1, 1975,
1203 in accordance with this chapter. ~~and~~ The cost for such past
1204 service is established by applying the following formula: The
1205 employer shall contribute an amount equal to the employer or
1206 employee contribution rate in effect at the time the service was
1207 earned, as applicable, multiplied by the employee's gross salary
1208 for each year of past service claimed, plus 6.5 percent ~~6.5-~~
1209 ~~percent~~ interest thereon, compounded annually, for figured on
1210 each year of past service, with interest compounded from date of
1211 annual salary earned until date of payment.

1212 (c) If an ~~Should the~~ employer joined the Florida Retirement
1213 System before July 1, 2011, and does not elect to provide past
1214 service for the member on the date of joining the system, then
1215 the member may claim and pay for the service as provided in
1216 same, based on paragraphs (a) and (b).

1217 (2) Prior service, as defined in s. 121.021~~(19)~~, may be
1218 claimed as creditable service under the Florida Retirement
1219 System after a member has been reemployed for 1 complete year of
1220 creditable service ~~within a period of 12 consecutive months~~,
1221 except as provided in paragraph (c). Service performed as a
1222 member participant of the optional retirement program for the
1223 State University System under s. 121.35 or the Senior Management
1224 Service Optional Annuity Program under s. 121.055 may be used to
1225 satisfy the reemployment requirement of 1 complete year of
1226 creditable service. The member may ~~shall not be permitted to~~
1227 make any contributions for prior service until after completion
1228 of the 1 year of creditable service. If a member does not wish
1229 to claim credit for all of his or her prior service, the service
1230 the member claims must be the most recent period of service. The



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1231 required contributions for claiming the various types of prior
1232 service are:

1233 (a) For prior service performed before ~~prior to~~ the date
1234 the system becomes noncontributory for the member and for which
1235 the member had credit under one of the existing retirement
1236 systems and received a refund of contributions upon termination
1237 of employment, the member shall contribute 4 percent of all
1238 salary received during the period being claimed, plus 4 percent
1239 ~~4-percent~~ interest compounded annually from date of refund until
1240 July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest compounded
1241 annually thereafter, until full payment is made to the Florida
1242 Retirement System Trust Fund, and shall receive credit in the
1243 Regular Class. A member who elected to transfer to the Florida
1244 Retirement System from an existing system may receive credit for
1245 prior service under the existing system if he or she was
1246 eligible under the existing system to claim the prior service at
1247 the time of the transfer. Contributions for such prior service
1248 shall be determined by the applicable provisions of the system
1249 under which the prior service is claimed and shall be paid by
1250 the member, with matching contributions paid by the employer at
1251 the time the service was performed. Effective July 1, 1978, the
1252 account of a person who terminated under s. 238.05(3) may not be
1253 charged interest for contributions that remained on deposit in
1254 the Annuity Savings Trust Fund established under chapter 238,
1255 upon retirement under this chapter or chapter 238.

1256 (b) For prior service performed before ~~prior to~~ the date
1257 the system becomes noncontributory for the member and for which
1258 the member had credit under the Florida Retirement System and
1259 received a refund of contributions upon termination of



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1260 employment, the member shall contribute at the rate that was
1261 required of him or her during the period of service being
1262 claimed, on all salary received during such period, plus 4
1263 percent ~~4-percent~~ interest compounded annually from date of
1264 refund until July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest
1265 compounded annually thereafter, until the full payment is made
1266 to the Florida Retirement System Trust Fund, and ~~shall~~ receive
1267 credit in the membership class in which the member participated
1268 during the period claimed.

1269 (c) For prior service as defined in s. 121.021(19) (b) and
1270 (c) during which no contributions were made because the member
1271 did not participate in a retirement system, the member shall
1272 contribute 14.38 percent of all salary received during such
1273 period or 14.38 percent of \$100 per month during such period,
1274 whichever is greater, plus 4 percent ~~4-percent~~ interest
1275 compounded annually from the first year of service claimed until
1276 July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest compounded
1277 annually thereafter, until full payment is made to the
1278 Retirement Trust Fund, and shall receive credit in the Regular
1279 Class.

1280 (d) In order to claim credit for prior service as defined
1281 in s. 121.021(19) (d) for which no retirement contributions were
1282 paid during the period of such service, the member shall
1283 contribute the total employee and employer contributions which
1284 were required to be made to the Highway Patrol Pension Trust
1285 Fund, as provided in chapter 321, during the period claimed,
1286 plus 4 percent ~~4-percent~~ interest compounded annually from the
1287 first year of service until July 1, 1975, and 6.5 percent ~~6.5-~~
1288 ~~percent~~ interest compounded annually thereafter, until full



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1289 payment is made to the Retirement Trust Fund. However, any
1290 governmental entity that ~~which~~ employed such member may elect to
1291 pay up to 50 percent of the contributions and interest required
1292 to purchase the ~~this~~ prior service credit. The service shall be
1293 credited in accordance with the ~~provisions of the~~ Highway Patrol
1294 Pension Plan in effect during the period claimed unless the
1295 member terminated and withdrew his or her retirement
1296 contributions and was thereafter enrolled in the State and
1297 County Officers and Employees' Retirement System or the Florida
1298 Retirement System, in which case the service shall be credited
1299 as Regular Class service.

1300 (e) For service performed under the Florida Retirement
1301 System after December 1, 1970, which ~~that~~ was never reported to
1302 the division or the department due to error, retirement credit
1303 may be claimed by a member of the Florida Retirement System. The
1304 department shall adopt rules establishing criteria for claiming
1305 such credit and detailing the documentation required to
1306 substantiate the error.

1307 (f) For prior service performed on or after July 1, 2011,
1308 for which the member had credit under the Florida Retirement
1309 System and received a refund of contributions 3 months after
1310 termination of employment, the member shall contribute at the
1311 rate that was required during the period of service being
1312 claimed, plus 6.5 percent interest, compounded annually on each
1313 June 30 from date of refund until the full payment is made to
1314 the Florida Retirement System Trust Fund, and shall receive
1315 credit in the membership class in which the member participated
1316 during the period claimed.

1317 (g) ~~(f)~~ The employer may not ~~be required to~~ make



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1318 contributions for prior service credit for any member, except
1319 that the employer shall pay the employer portion of
1320 contributions for any legislator who elects to withdraw from the
1321 Florida Retirement System and later rejoins the system and pays
1322 any employee contributions required in accordance with s.
1323 121.052(3)(d).

1324 Section 14. Paragraph (a) of subsection (3), paragraph (a)
1325 of subsection (4), paragraphs (a) and (c) of subsection (5),
1326 paragraph (d) of subsection (9), and paragraph (d) of subsection
1327 (14) of section 121.091, Florida Statutes, are amended, present
1328 paragraphs (e) through (k) of subsection (5) of that section are
1329 renumbered as paragraphs (f) through (l), respectively, and a
1330 new paragraph (d) is added to that subsection, to read:

1331 121.091 Benefits payable under the system.—Benefits may not
1332 be paid under this section unless the member has terminated
1333 employment as provided in s. 121.021(39)(a) or begun
1334 participation in the Deferred Retirement Option Program as
1335 provided in subsection (13), and a proper application has been
1336 filed in the manner prescribed by the department. The department
1337 may cancel an application for retirement benefits when the
1338 member or beneficiary fails to timely provide the information
1339 and documents required by this chapter and the department's
1340 rules. The department shall adopt rules establishing procedures
1341 for application for retirement benefits and for the cancellation
1342 of such application when the required information or documents
1343 are not received.

1344 (3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or her
1345 early retirement date, the member shall receive an immediate
1346 monthly benefit that shall begin to accrue on the first day of



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1347 the month of the retirement date and be payable on the last day
1348 of that month and each month thereafter during his or her
1349 lifetime. Such benefit shall be calculated as follows:

1350 (a) The amount of each monthly payment shall be computed in
1351 the same manner as ~~for~~ a normal retirement benefit, in
1352 accordance with subsection (1), but shall be based on the
1353 member's average monthly compensation and creditable service as
1354 of the member's early retirement date. The benefit so computed
1355 shall be reduced by five-twelfths of 1 percent for each complete
1356 month by which the early retirement date precedes the normal
1357 retirement date of age 62 for a member of the Regular Class,
1358 Senior Management Service Class, or the Elected Officers' Class,
1359 and age 55 for a member of the Special Risk Class, or age 52 if
1360 a Special Risk member has completed 25 years of creditable
1361 service in accordance with s. 121.021(29) ~~(b)3~~.

1362 (4) DISABILITY RETIREMENT BENEFIT.—

1363 (a) *Disability retirement; entitlement and effective date.*—

1364 1.a. A member who becomes totally and permanently disabled,
1365 as defined in paragraph (b), after completing 5 years of
1366 creditable service, or a member who becomes totally and
1367 permanently disabled in the line of duty regardless of service,
1368 is shall be entitled to a monthly disability benefit; except
1369 that any member with less than 5 years of creditable service on
1370 July 1, 1980, or any person who becomes a member of the Florida
1371 Retirement System on or after such date must have completed 10
1372 years of creditable service before ~~prior to~~ becoming totally and
1373 permanently disabled in order to receive disability retirement
1374 benefits for any disability which occurs other than in the line
1375 of duty. However, if a member employed on July 1, 1980, that has



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1376 ~~with~~ less than 5 years of creditable service as of that date,
1377 becomes totally and permanently disabled after completing 5
1378 years of creditable service and is found not to have attained
1379 fully insured status for benefits under the federal Social
1380 Security Act, such member is ~~shall be~~ entitled to a monthly
1381 disability benefit.

1382 b. Effective July 1, 2001, a member of the pension plan
1383 ~~defined benefit retirement program~~ who becomes totally and
1384 permanently disabled, as defined in paragraph (b), after
1385 completing 8 years of creditable service, or a member who
1386 becomes totally and permanently disabled in the line of duty
1387 regardless of service, is ~~shall be~~ entitled to a monthly
1388 disability benefit.

1389 2. If the division has received from the employer the
1390 required documentation of the member's termination of
1391 employment, the effective retirement date for a member who
1392 applies and is approved for disability retirement shall be
1393 established by rule of the division.

1394 3. For a member who is receiving Workers' Compensation
1395 payments, the effective disability retirement date may not
1396 precede the date the member reaches Maximum Medical Improvement
1397 (MMI), unless the member terminates employment before ~~prior to~~
1398 reaching MMI.

1399 (5) TERMINATION BENEFITS.—A member whose employment is
1400 terminated before ~~prior to~~ retirement retains membership rights
1401 to previously earned member-noncontributory service credit, and
1402 to member-contributory service credit, if the member leaves the
1403 member contributions on deposit in his or her retirement
1404 account. If a terminated member receives a refund of member



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1405 contributions, such member may reinstate membership rights to
1406 the previously earned service credit represented by the refund
1407 by completing 1 year of creditable service and repaying the
1408 refunded member contributions, plus interest.

1409 (a) A member whose employment is terminated for any reason
1410 other than death or retirement before ~~prior to~~ becoming vested
1411 is entitled to the return of his or her accumulated employee
1412 contributions as of the date of termination.

1413 (c) In lieu of the deferred monthly benefit provided in
1414 paragraph (b), the terminated member may elect to receive a
1415 lump-sum amount equal to his or her accumulated employee
1416 contributions as of the date of termination.

1417 (d) Upon termination of employment from all participating
1418 employers for 3 calendar months for any reason other than
1419 retirement pursuant to s. 121.021(39)(c), a member may receive a
1420 refund of all contributions he or she has made to the pension
1421 plan, subject to restrictions otherwise provided in this
1422 chapter. Partial refunds are not permitted. The refund may not
1423 include any interest earnings on the contributions for a member
1424 of the pension plan. Employer contributions made on behalf of
1425 the member are not refundable. A member may not receive a refund
1426 of employee contributions if a pending or an approved qualified
1427 domestic relations order is filed against his or her retirement
1428 account. By obtaining a refund of contributions, a member waives
1429 all rights under the Florida Retirement System and the health
1430 insurance subsidy to the service credit represented by the
1431 refunded contributions, except the right to purchase his or her
1432 prior service credit in accordance with s. 121.081(2).

1433 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—



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1434 (d) ~~The provisions of~~ This subsection applies ~~apply~~ to
1435 retirees, as defined in s. 121.4501(2), of the Florida Public
1436 ~~Employee Optional Retirement System Investment Plan Program,~~
1437 subject to the following conditions:

1438 1. The retiree ~~retirees~~ may not be reemployed with an
1439 employer participating in the Florida Retirement System until
1440 such person has been retired for 6 calendar months.

1441 2. A retiree employed in violation of this subsection and
1442 an employer that employs or appoints such person are jointly and
1443 severally liable for reimbursement of any benefits paid to the
1444 retirement trust fund from which the benefits were paid,
1445 ~~including the Retirement System Trust Fund and the Public~~
1446 ~~Employee Optional Retirement Program Trust Fund, as appropriate.~~
1447 The employer must have a written statement from the retiree that
1448 he or she is not retired from a state-administered retirement
1449 system.

1450 (14) PAYMENT OF BENEFITS.—This subsection applies to the
1451 payment of benefits to a payee (retiree or beneficiary) under
1452 the Florida Retirement System:

1453 (d) A payee whose retirement benefits are reduced by the
1454 application of maximum benefit limits under s. 415(b) of the
1455 Internal Revenue Code, as specified in s. 121.30(5), shall have
1456 the portion of his or her calculated benefit in the Florida
1457 Retirement System's pension System defined benefit plan which
1458 exceeds such federal limitation paid through the Florida
1459 Retirement System Preservation of Benefits Plan, as provided in
1460 s. 121.1001.

1461 Section 15. Subsection (1) and paragraph (a) of subsection
1462 (2) of section 121.1001, Florida Statutes, is amended to read:



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1463 121.1001 Florida Retirement System Preservation of Benefits
1464 Plan.—Effective July 1, 1999, the Florida Retirement System
1465 Preservation of Benefits Plan is established as a qualified
1466 governmental excess benefit arrangement pursuant to s. 415(m) of
1467 the Internal Revenue Code. The Preservation of Benefits Plan is
1468 created as a separate portion of the Florida Retirement System,
1469 for the purpose of providing benefits to a payee (retiree or
1470 beneficiary) of the Florida Retirement System whose benefits
1471 would otherwise be limited by s. 415(b) of the Internal Revenue
1472 Code.

1473 (1) ELIGIBILITY TO PARTICIPATE IN THE PRESERVATION OF
1474 BENEFITS PLAN.—A payee of the Florida Retirement System shall
1475 participate in the Preservation of Benefits Plan if ~~whenever~~ his
1476 or her earned benefit under the Florida Retirement System's
1477 pension System ~~defined benefit~~ plan exceeds the benefit maximum
1478 established under s. 415(b) of the Internal Revenue Code.
1479 Participation in the Preservation of Benefits Plan shall
1480 continue for as long as the payee's earned benefit under the
1481 pension ~~Florida Retirement System defined benefit~~ plan is
1482 reduced by the application of the maximum benefit limit under s.
1483 415(b) of the Internal Revenue Code.

1484 (2) BENEFITS PAYABLE UNDER THE PRESERVATION OF BENEFITS
1485 PLAN.—

1486 (a) On and after July 1, 1999, the Division of Retirement
1487 shall pay to each eligible payee of the Florida Retirement
1488 System who retires before, on, or after that ~~such~~ date, a
1489 supplemental retirement benefit equal to the difference between
1490 the amount of the payee's monthly retirement benefit which would
1491 have been payable under the Florida Retirement System's pension



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1492 ~~System defined benefit~~ plan if not for a reduction due to the
1493 application of s. 415(b) of the Internal Revenue Code and the
1494 reduced monthly retirement benefit as paid to the payee. The
1495 Preservation of Benefits Plan benefit shall be computed and
1496 payable under the same terms and conditions and to the same
1497 person as would have applied under the pension ~~Florida~~
1498 ~~Retirement System defined benefit~~ plan were it not for the
1499 federal limitation.

1500 Section 16. Subsection (1) of section 121.121, Florida
1501 Statutes, is amended to read:

1502 121.121 Authorized leaves of absence.-

1503 (1) A member may purchase creditable service for up to 2
1504 work years of authorized leaves of absence, including any leaves
1505 of absence covered under the Family Medical Leave Act, if:

1506 (a) The member has completed a minimum of 6 years of
1507 creditable service, excluding periods for which a leave of
1508 absence was authorized;

1509 (b) The leave of absence is authorized in writing by the
1510 employer of the member and approved by the administrator;

1511 (c) The member returns to active employment performing
1512 service with a Florida Retirement System employer in a regularly
1513 established position immediately upon termination of the leave
1514 of absence and remains on the employer's payroll for 1 calendar
1515 month, except that a member who retires on disability while on a
1516 medical leave of absence may ~~shall~~ not be required to return to
1517 employment. A member whose work year is less than 12 months and
1518 whose leave of absence terminates between school years is
1519 eligible to receive credit for the leave of absence if ~~as long~~
1520 ~~as~~ he or she returns to the employment ~~of his or her employer~~ at



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1521 the beginning of the next school year and remains on the
1522 employer's payroll for 1 calendar month; and

1523 (d) The member makes the required contributions for service
1524 credit during the leave of absence, which shall be 8 percent
1525 until January 1, 1975, and 9 percent thereafter of his or her
1526 rate of monthly compensation in effect immediately before ~~prior~~
1527 ~~to~~ the commencement of such leave for each month of such period,
1528 plus 4 percent interest until July 1, 1975, and 6.5 percent
1529 interest thereafter on such contributions, compounded annually
1530 each June 30 from the due date of the contribution to date of
1531 payment. Effective July 1, 1980, any leave of absence purchased
1532 pursuant to this section is ~~shall be~~ at the contribution rates
1533 specified in s. 121.071 or s. 121.71 in effect at the time the
1534 leave is granted for the class of membership from which the
1535 leave of absence was granted; however, any member who purchased
1536 leave-of-absence credit before ~~prior to~~ July 1, 1980, for a
1537 leave of absence from a position in a class other than the
1538 regular membership class, may pay the appropriate additional
1539 contributions plus compound interest thereon and receive
1540 creditable service for such leave of absence in the membership
1541 class from which the member was granted the leave of absence.
1542 Effective July 1, 2011, any leave of absence purchased pursuant
1543 to this section shall be at the employee and employer
1544 contribution rates specified in s. 121.71 in effect during the
1545 leave for the class of membership from which the leave of
1546 absence was granted.

1547 Section 17. Subsection (2) of section 121.122, Florida
1548 Statutes, is amended, and subsection (3) is added to that
1549 section, to read:



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1550 121.122 Renewed membership in system.-

1551 (2) A retiree of a state-administered retirement system who
1552 is initially reemployed on or after July 1, 2010, through June
1553 30, 2011, shall become a member of the Regular Class and be
1554 enrolled in the Florida Retirement System Investment Plan on
1555 July 1, 2011, and must resatisfy the vesting requirements and
1556 other provisions provided in this chapter ~~is not eligible for~~
1557 ~~renewed membership.~~

1558 (a) Creditable service, including credit towards the
1559 retiree health insurance subsidy provided in s. 112.363, does
1560 not accrue for a retiree's employment in a regularly established
1561 position with a covered employer during the period from July 1,
1562 2010, through June 30, 2011.

1563 (b) Employer contributions, interest, earnings, or any
1564 other funds may not be paid into a renewed member's investment
1565 plan account for any employment in a regularly established
1566 position with a covered employer during the period from July 1,
1567 2010, through June 30, 2011.

1568 (c) To be eligible to receive a retirement benefit under
1569 the investment plan, the renewed member must meet the vesting
1570 requirements of the plan as provided in s. 121.4501(6).

1571 (d) The member is not entitled to disability benefits as
1572 provided in s. 121.091(4) or s. 121.591(2).

1573 (e) The member must meet the reemployment after retirement
1574 limitations as provided in s. 121.091(9), as applicable.

1575 (f) Upon the renewed membership or reemployment of a
1576 retiree, the employer of such member and the retiree shall pay
1577 the applicable employer and employee contributions as required
1578 by ss. 112.363, 121.71, 121.74, and 121.76. Such contributions



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1579 are payable only for employment in a regularly established
1580 position with a covered employer on or after July 1, 2011.

1581 (g) The member may not purchase any prior or past service
1582 in the investment plan, including employment in a regularly
1583 established position with a covered employer during the period
1584 from July 1, 2010, through June 30, 2011.

1585 (h) A renewed member who is not receiving the maximum
1586 health insurance subsidy provided in s. 112.363 is entitled to
1587 earn additional credit toward the subsidy. Such credit may be
1588 earned only for employment in a regularly established position
1589 with a covered employer on or after July 1, 2011. Any additional
1590 subsidy due because of additional credit may be received only at
1591 the time of paying the second career retirement benefit. The
1592 total health insurance subsidy received by a retiree receiving
1593 benefits from initial and renewed membership may not exceed the
1594 maximum allowed under s. 112.363.

1595 (3) Any retiree of a state-administered retirement system
1596 who is initially reemployed on or after July 1, 2011, in a
1597 regularly established position with a covered employer,
1598 including an elective public office that does not qualify for
1599 the Elected Officers' Class, shall become a member of the
1600 Regular Class and be enrolled in the Florida Retirement System
1601 Investment Plan, and must resatisfy the vesting requirements and
1602 other provisions provided in this chapter.

1603 (a) To be eligible to receive a retirement benefit under
1604 the investment plan, the renewed member must meet the vesting
1605 requirements of the investment plan as provided in s.
1606 121.4501(6).

1607 (b) The member is not entitled to disability benefits as



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1608 provided in s. 121.091(4) or s. 121.591(2).

1609 (c) The member must meet the reemployment after retirement
1610 limitations provided in s. 121.091(9), as applicable.

1611 (d) Upon renewed membership or reemployment of a retiree,
1612 the employer of such member and the retiree must pay the
1613 applicable employer and employee contributions as required by
1614 ss. 112.363, 121.71, 121.74, and 121.76.

1615 (e) The member may not purchase any prior or past service
1616 in the investment plan.

1617 (f) A renewed member who is not receiving the maximum
1618 health insurance subsidy provided in s. 112.363 is entitled to
1619 earn additional credit toward the subsidy. Any additional
1620 subsidy due because of additional credit may be received only at
1621 the time of paying the second career retirement benefit. The
1622 total health insurance subsidy received by a retiree receiving
1623 benefits from initial and renewed membership may not exceed the
1624 maximum allowed under s. 112.363.

1625 Section 18. Section 121.125, Florida Statutes, is amended
1626 to read:

1627 121.125 Credit for workers' compensation payment periods.—A
1628 member of the retirement system created by this chapter who has
1629 been eligible or becomes eligible for ~~to receive~~ workers'
1630 compensation payments for an injury or illness that occurred
1631 ~~occurring~~ during ~~his or her~~ employment while a member of a ~~any~~
1632 state retirement system shall, upon return to active employment
1633 with a covered employer for 1 calendar month or upon approval
1634 for disability retirement in accordance with s. 121.091(4),
1635 receive full retirement credit for the period before ~~prior to~~
1636 such return to active employment or disability retirement for



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1637 which the workers' compensation payments were received. However,
1638 a ~~no~~ member may not receive retirement credit for ~~any~~ such
1639 period occurring after the earlier of the date of maximum
1640 medical improvement as defined in s. 440.02 or the date
1641 termination has occurred as defined in s. 121.021~~(39)~~. The
1642 employer of record at the time of the worker's compensation
1643 injury or illness shall make the required employee and employer
1644 retirement contributions based on the member's rate of monthly
1645 compensation immediately before ~~prior to his or her~~ receiving
1646 workers' compensation payments for retirement credit received by
1647 the member.

1648 Section 19. Paragraphs (g) and (i) of subsection (3) and
1649 subsection (4) of section 121.35, Florida Statutes, are amended
1650 to read:

1651 121.35 Optional retirement program for the State University
1652 System.—

1653 (3) ELECTION OF OPTIONAL PROGRAM.—

1654 (g) An eligible employee who is a member of the Florida
1655 Retirement System at the time of electing ~~election~~ to
1656 participate in the optional retirement program shall retain all
1657 retirement service credit earned under the Florida Retirement
1658 System, at the rate earned. ~~No~~ Additional service credit in the
1659 ~~Florida Retirement~~ system may not ~~shall~~ be earned while the
1660 employee participates in the optional program, and ~~nor shall~~ the
1661 employee is not ~~be~~ eligible for disability retirement under the
1662 ~~Florida Retirement~~ system. An eligible employee may transfer
1663 from the Florida Retirement System to his or her accounts under
1664 the State University System Optional Retirement Program a sum
1665 representing the present value of the employee's accumulated



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1666 benefit obligation under the ~~defined benefit program of the~~
1667 Florida Retirement System's pension plan System for any service
1668 credit accrued from the employee's first eligible transfer date
1669 to the optional retirement program through the actual date of
1670 such transfer, if such service credit was earned ~~in the period~~
1671 from July 1, 1984, through December 31, 1992. The present value
1672 of the employee's accumulated benefit obligation shall be
1673 calculated as described in s. 121.4501(3) ~~s. 121.4501(3)(c)2.~~
1674 Upon ~~such~~ transfer, all ~~such~~ service credit ~~previously~~ earned
1675 under the pension plan ~~defined benefit program of the Florida~~
1676 ~~Retirement System~~ during this period is ~~shall be~~ nullified for
1677 purposes of entitlement to a future benefit under the pension
1678 plan ~~defined benefit program of the Florida Retirement System.~~

1679 (i) Effective January 1, 2008, through December 31, 2008,
1680 except for an employee who is a mandatory member ~~participant~~ of
1681 the State University System Optional Retirement Program, an
1682 employee who has elected to participate in the State University
1683 System Optional Retirement Program shall have one opportunity,
1684 at the employee's discretion, ~~to choose~~ to transfer from this
1685 program to the pension plan or the investment plan ~~defined~~
1686 ~~benefit program of the Florida Retirement System or to the~~
1687 ~~Public Employee Optional Retirement Program~~, subject to the
1688 terms of the applicable contracts of the State University System
1689 Optional Retirement Program.

1690 1. If the employee chooses to move to the investment plan
1691 ~~Public Employee Optional Retirement~~ program, any contributions,
1692 interest, and earnings creditable to the employee under the
1693 State University System Optional Retirement Program must ~~shall~~
1694 be retained by the employee in the State University System



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1695 Optional Retirement Program, and the applicable provisions of s.
1696 121.4501(4) shall govern the election.

1697 2. If the employee chooses to move to the pension plan
1698 ~~defined benefit program of the Florida Retirement System~~, the
1699 employee shall receive service credit equal to his or her years
1700 of service under the State University System Optional Retirement
1701 Program.

1702 a. The cost for such credit must be in ~~shall be~~ an amount
1703 representing the actuarial accrued liability for the affected
1704 period of service. The cost must ~~shall~~ be calculated using the
1705 discount rate and other relevant actuarial assumptions that were
1706 used to value the pension ~~Florida Retirement System defined~~
1707 ~~benefit~~ plan liabilities in the most recent actuarial valuation.
1708 The calculation must ~~shall~~ include any service already
1709 maintained under the pension ~~defined benefit~~ plan in addition to
1710 the years under the State University System Optional Retirement
1711 Program. The actuarial accrued liability of any service already
1712 maintained under the pension ~~defined benefit~~ plan must ~~shall~~ be
1713 applied as a credit to total cost resulting from the
1714 calculation. The division must ~~shall~~ ensure that the transfer
1715 sum is prepared using a formula and methodology certified by an
1716 enrolled actuary.

1717 b. The employee must transfer from his or her State
1718 University System Optional Retirement Program account, and from
1719 other employee moneys as necessary, a sum representing the
1720 actuarial accrued liability immediately following the time of
1721 such movement, determined assuming that attained service equals
1722 the sum of service in the pension plan ~~defined benefit program~~
1723 and service in the State University System Optional Retirement



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1724 Program.

1725 (4) CONTRIBUTIONS.—

1726 (a)1. Through June 30, 2001, each employer shall contribute
1727 on behalf of each member of ~~participant in~~ the optional
1728 retirement program an amount equal to the normal cost portion of
1729 the employer retirement contribution which would be required if
1730 the employee ~~participant~~ were a regular member of the Florida
1731 Retirement System's pension plan ~~System defined benefit program~~,
1732 plus the portion of the contribution rate required in s.
1733 112.363(8) that would otherwise be assigned to the Retiree
1734 Health Insurance Subsidy Trust Fund.

1735 2. Effective July 1, 2001, through June 30, 2011, each
1736 employer shall contribute on behalf of each member of
1737 ~~participant in~~ the optional retirement program an amount equal
1738 to 10.43 percent of the employee's ~~participant's~~ gross monthly
1739 compensation.

1740 3. Effective July 1, 2011, each member of the optional
1741 retirement program shall contribute an amount equal to the
1742 employee contribution required in s. 121.71(3). The employer
1743 shall contribute on behalf of each such member an amount equal
1744 to the difference between 10.43 percent of the employee's gross
1745 monthly compensation and the amount equal to the employee's
1746 required contribution based on the employee's gross monthly
1747 compensation.

1748 4. ~~The department shall deduct an amount approved by the~~
1749 ~~Legislature to provide for the administration of this program.~~
1750 The payment of the contributions, including contributions by the
1751 employee, to the optional program which is required by this
1752 ~~paragraph for each participant~~ shall be made by the employer to



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1753 the department, which shall forward the contributions to the
1754 designated company or companies contracting for payment of
1755 benefits for member's of ~~the participant under~~ the program.
1756 However, such contributions paid on behalf of an employee
1757 described in paragraph (3) (c) may ~~shall~~ not be forwarded to a
1758 company and do ~~shall~~ not begin to accrue interest until the
1759 employee has executed a contract and notified the department.
1760 The department shall deduct an amount from the contributions to
1761 provide for the administration of this program.

1762 (b) Each employer shall contribute on behalf of each member
1763 of participant ~~in~~ the optional retirement program an amount
1764 equal to the unfunded actuarial accrued liability portion of the
1765 employer contribution which would be required for members of the
1766 Florida Retirement System. This contribution shall be paid to
1767 the department for transfer to the Florida Retirement System
1768 Trust Fund.

1769 (c) An Optional Retirement Program Trust Fund shall be
1770 established in the State Treasury and administered by the
1771 department to make payments to the provider companies on behalf
1772 of ~~the~~ optional retirement program members ~~participants~~, and to
1773 transfer the unfunded liability portion of the state optional
1774 retirement program contributions to the Florida Retirement
1775 System Trust Fund.

1776 (d) Contributions required for social security by each
1777 employer and each employee ~~participant~~, in the amount required
1778 for social security coverage as now or hereafter may be provided
1779 by the federal Social Security Act, shall be maintained for each
1780 member of ~~participant in~~ the optional retirement program and are
1781 ~~shall be~~ in addition to the retirement contributions specified



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1782 in this subsection.

1783 (e) Each member of participant in the optional retirement
1784 program who has executed a contract may contribute by way of
1785 salary reduction or deduction a percentage amount of the
1786 employee's participant's gross compensation not to exceed the
1787 percentage amount contributed by the employer to the optional
1788 program, but ~~in no case may~~ such contribution may not exceed
1789 federal limitations. Payment of the employee's participant's
1790 contributions shall be made by the financial officer of the
1791 employer to the division which shall forward the contributions
1792 to the designated company or companies contracting for payment
1793 of benefits for members ~~the participant~~ under the program. A
1794 member participant may not make, through salary reduction, any
1795 voluntary employee contributions to any other plan under s.
1796 403(b) of the Internal Revenue Code, with the exception of a
1797 custodial account under s. 403(b)(7) of the Internal Revenue
1798 Code, until he or she has made an employee contribution to his
1799 or her optional program equal to the employer contribution. An
1800 employee ~~A participant~~ is responsible for monitoring his or her
1801 individual tax-deferred income to ensure he or she does not
1802 exceed the maximum deferral amounts permitted under the Internal
1803 Revenue Code.

1804 (f) The Optional Retirement Trust Fund may accept for
1805 deposit into member participant contracts contributions in the
1806 form of rollovers or direct trustee-to-trustee transfers by or
1807 on behalf of members participants who are reasonably determined
1808 by the department to be eligible for rollover or transfer to the
1809 optional retirement program pursuant to the Internal Revenue
1810 Code, if such contributions are made in accordance with rules



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1811 adopted by the department. Such contributions shall be accounted
1812 for in accordance with any applicable requirements of the
1813 Internal Revenue Code and department rules ~~of the department~~.

1814 (g) Effective July 1, 2008, for purposes of paragraph (a)
1815 and notwithstanding s. 121.021(22)(b)1., the term "employee's
1816 ~~participant's~~ gross monthly compensation" includes salary
1817 payments made to eligible clinical faculty from a state
1818 university using funds provided by a faculty practice plan
1819 authorized by the Board of Governors of the State University
1820 System if:

1821 1. There is no ~~not any~~ employer contribution from the state
1822 university to any other retirement program with respect to such
1823 salary payments; and

1824 2. The employer contribution on behalf of a member of the
1825 ~~participant in~~ the optional retirement program with respect to
1826 such salary payments is made using funds provided by the faculty
1827 practice plan.

1828 Section 20. Subsections (1) and (2) of section 121.355,
1829 Florida Statutes, is amended to read:

1830 121.355 Community College Optional Retirement Program and
1831 State University System Optional Retirement Program member
1832 transfer.—Effective January 1, 2009, through December 31, 2009,
1833 an employee who is a former member of ~~participant in~~ the
1834 Community College Optional Retirement Program or the State
1835 University System Optional Retirement Program and present
1836 mandatory member of ~~participant in~~ the Florida Retirement
1837 System's pension ~~System defined benefit~~ plan may receive service
1838 credit equal to his or her years of service under the Community
1839 College Optional Retirement Program or the State University



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1840 System Optional Retirement Program under the following
1841 conditions:

1842 (1) The cost for such credit must represent ~~shall be an~~
1843 ~~amount representing~~ the actuarial accrued liability for the
1844 affected period of service. The cost shall be calculated using
1845 the discount rate and other relevant actuarial assumptions that
1846 were used to value the Florida Retirement System's pension
1847 ~~System defined benefit~~ plan liabilities in the most recent
1848 actuarial valuation. The calculation must ~~shall~~ include any
1849 service already maintained under the pension ~~defined benefit~~
1850 plan in addition to the years under the Community College
1851 Optional Retirement Program or the State University System
1852 Optional Retirement Program. The actuarial accrued liability of
1853 any service already maintained under the pension ~~defined benefit~~
1854 plan shall be applied as a credit to total cost resulting from
1855 the calculation. The division shall ensure that the transfer sum
1856 is prepared using a formula and methodology certified by an
1857 enrolled actuary.

1858 (2) The employee must transfer from his or her Community
1859 College Optional Retirement Program account or State University
1860 System Optional Retirement Program account, subject to the terms
1861 of the applicable optional retirement program contract, and from
1862 other employee moneys as necessary, a sum representing the
1863 actuarial accrued liability immediately following the time of
1864 such movement, determined assuming that attained service equals
1865 the sum of service in the pension plan ~~defined benefit program~~
1866 and service in the Community College Optional Retirement Program
1867 or State University System Optional Retirement Program.

1868 Section 21. Section 121.4501, Florida Statutes, is amended



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1869 to read:

1870 121.4501 Florida Public Employee Optional Retirement System
1871 Investment Plan Program.—

1872 (1) The Trustees of the State Board of Administration shall
1873 establish a ~~an optional~~ defined contribution ~~retirement~~ program
1874 called the Florida Retirement System Investment Plan for members
1875 of the Florida Retirement System under which retirement benefits
1876 are will be provided for eligible employees initially employed
1877 before July 1, 2011, who elect to enroll participate in the
1878 plan. Enrollment is compulsory for all eligible employees
1879 employed on or after July 1, 2011, except for those who are
1880 eligible to and elect to enroll in an optional retirement
1881 program established under s. 121.055(6), s. 121.35, or s.
1882 1012.875 program. The retirement benefits to be provided for or
1883 on behalf of participants in such optional retirement program
1884 shall be provided through employee-directed investments, in
1885 accordance with s. 401(a) of the Internal Revenue Code and ~~its~~
1886 related regulations. ~~The~~ Employers and employees shall make
1887 contributions contribute, as provided in this section ~~and,~~ ss.
1888 121.571~~7~~ and 121.71, to the Florida Public Employee Optional
1889 Retirement System Investment Plan Program Trust Fund toward the
1890 funding of ~~such optional~~ benefits.

1891 (2) DEFINITIONS.—As used in this part, the term:

1892 (a) "Approved provider" or "provider" means a private
1893 sector company that is selected and approved by the state board
1894 to offer one or more investment products or services to the
1895 investment plan optional retirement program. The term includes a
1896 bundled provider that offers plan members participants a range
1897 of individually allocated or unallocated investment products and



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1898 may offer a range of administrative and customer services, which
1899 may include accounting and administration of individual member
1900 ~~participant~~ benefits and contributions; individual member
1901 ~~participant~~ recordkeeping; asset purchase, control, and
1902 safekeeping; direct execution of the member's ~~participant's~~
1903 instructions as to asset and contribution allocation;
1904 calculation of daily net asset values; direct access to member
1905 ~~participant~~ account information; periodic reporting to members
1906 ~~participants~~, at least quarterly, on account balances and
1907 transactions; guidance, advice, and allocation services directly
1908 relating to the provider's own investment options or products,
1909 but only if the bundled provider complies with the standard of
1910 care of s. 404(a)(1)(A-B) of the Employee Retirement Income
1911 Security Act of 1974 (ERISA) and if providing such guidance,
1912 advice, or allocation services does not constitute a prohibited
1913 transaction under s. 4975(c)(1) of the Internal Revenue Code or
1914 s. 406 of ERISA, notwithstanding that such prohibited
1915 transaction provisions do not apply to the ~~optional~~ retirement
1916 program; a broad array of distribution options; asset
1917 allocation; and retirement counseling and education. Private
1918 sector companies include investment management companies,
1919 insurance companies, depositories, and mutual fund companies.

1920 (b) "Average monthly compensation" means one-twelfth of
1921 average final compensation as defined in s. 121.021.

1922 (c) "Covered employment" means employment in a regularly
1923 established position as defined in s. 121.021.

1924 ~~(d) "Defined benefit program" means the defined benefit~~
1925 ~~program of the Florida Retirement System administered under part~~
1926 ~~I of this chapter.~~



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1927 (d) "District school board employer" means a district
1928 school board that participates in the Florida Retirement System
1929 for the benefit of certain employees, or a charter school or
1930 charter technical career center that participates in the Florida
1931 Retirement System as provided under s. 121.051(2)(d).

1932 (e) "Division" means the Division of Retirement within the
1933 department.

1934 (f) "Electronic means" means by telephone, if ~~the required~~
1935 information is received on a recorded line, or through Internet
1936 access, if ~~the required~~ information is captured online.

1937 (g) "Eligible employee" means an officer or employee, as
1938 defined in s. 121.021, who:

1939 1. Is a member of, or is eligible for membership in, the
1940 Florida Retirement System, including any renewed member of the
1941 Florida Retirement System initially enrolled before July 1,
1942 2010; or

1943 2. Participates in, or is eligible to participate in, the
1944 Senior Management Service Optional Annuity Program as
1945 established under s. 121.055(6), the State Community College
1946 System Optional Retirement Program as established under s.
1947 121.051(2)(c), or the State University System Optional
1948 Retirement Program established under s. 121.35.

1949
1950 The term does not include any member participating in the
1951 Deferred Retirement Option Program established under s.
1952 121.091(13), a retiree of a state-administered retirement system
1953 initially reemployed on or after July 1, 2010, or a mandatory
1954 member participant of the State University System Optional
1955 Retirement Program established under s. 121.35.



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1956 (h) "Employer" means an employer, as defined in s. 121.021,
1957 of an eligible employee.

1958 (i) "Investment plan" means the Florida Retirement System
1959 Investment Plan, a defined contribution program established
1960 under this part.

1961 (j) "Local employer" means an employer that is not a state
1962 employer or a district school board employer.

1963 ~~(i) "Optional retirement program" or "optional program"~~
1964 ~~means the Public Employee Optional Retirement Program~~
1965 ~~established under this part.~~

1966 (k) ~~(j)~~ "Member Participant" means an eligible employee who
1967 is enrolled enrolls in the investment plan optional program as
1968 provided in subsection (4) or a terminated Deferred Retirement
1969 Option Program participant as described in subsection (21).

1970 (l) "Pension plan" means the defined benefit program of the
1971 Florida Retirement System administered under part I of this
1972 chapter.

1973 (m) ~~(k)~~ "Retiree" means a former member participant of the
1974 investment plan optional retirement program who has terminated
1975 employment and has taken a distribution as provided in s.
1976 121.591, except for a mandatory distribution of a de minimis
1977 account authorized by the state board.

1978 (n) "State employer" means an agency, board, branch,
1979 commission, community college, department, institution,
1980 institution of higher education, or water management district
1981 that participates in the Florida Retirement System for the
1982 benefit of certain employees.

1983 (o) ~~(l)~~ "Vested" or "vesting" means the guarantee that a
1984 member participant is eligible to receive a retirement benefit



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1985 upon completion of the required years of service under the
1986 investment plan optional retirement program.

1987 (3) ELIGIBILITY; RETIREMENT SERVICE CREDIT; TRANSFER OF
1988 BENEFITS.-

1989 ~~(a) Participation in the Public Employee Optional~~
1990 ~~Retirement Program is limited to eligible employees.~~
1991 ~~Participation in the optional retirement program is in lieu of~~
1992 ~~participation in the defined benefit program of the Florida~~
1993 ~~Retirement System.~~

1994 ~~(a)(b)~~ An eligible employee who is employed in a regularly
1995 established position by a state employer on June 1, 2002; by a
1996 district school board employer on September 1, 2002; or by a
1997 local employer on December 1, 2002, and who is a member of the
1998 pension plan defined benefit retirement program of the Florida
1999 Retirement System at the time of his or her election to enroll
2000 ~~participate in the investment plan Public Employee Optional~~
2001 ~~Retirement Program~~ shall retain all retirement service credit
2002 earned under the pension plan defined benefit retirement program
2003 ~~of the Florida Retirement System~~ as credited under the Florida
2004 Retirement System and is ~~shall be~~ entitled to a deferred benefit
2005 upon termination, ~~if eligible under the system~~. However,
2006 election to enroll participate in the investment plan Public
2007 ~~Employee Optional Retirement Program~~ terminates the active
2008 membership of the employee in the pension plan defined benefit
2009 ~~program of the Florida Retirement System~~, and the service of a
2010 member of participant in the investment plan is Public Employee
2011 ~~Optional Retirement Program~~ shall not be creditable under the
2012 pension plan defined benefit retirement program of the Florida
2013 ~~Retirement System~~ for purposes of benefit accrual but is



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2014 ~~creditable shall be credited~~ for purposes of vesting.

2015 ~~(b)(c)1.~~ Notwithstanding paragraph (a), ~~an (b),~~ each
2016 eligible employee who elects to enroll ~~participate~~ in the
2017 investment plan ~~Public Employee Optional Retirement Program~~ and
2018 establishes one or more individual member ~~participant~~ accounts
2019 ~~under the optional program~~ may elect to transfer to the
2020 investment plan ~~optional program~~ a sum representing the present
2021 value of the employee's accumulated benefit obligation under the
2022 pension plan ~~defined benefit retirement program of the Florida~~
2023 ~~Retirement System~~. Upon such transfer, all service credit
2024 ~~previously earned under the pension plan is defined benefit~~
2025 ~~program of the Florida Retirement System shall be nullified for~~
2026 purposes of entitlement to a future benefit under the pension
2027 plan ~~defined benefit program of the Florida Retirement System~~. A
2028 member may not transfer ~~participant is precluded from~~
2029 ~~transferring~~ the accumulated benefit obligation balance from the
2030 pension plan after the time ~~defined benefit program upon the~~
2031 ~~expiration of the period~~ for enrolling ~~afforded to enroll~~ in the
2032 investment plan ~~optional program~~.

2033 ~~1.2.~~ For purposes of this subsection, the present value of
2034 the member's accumulated benefit obligation is based upon the
2035 member's estimated creditable service and estimated average
2036 final compensation under the pension plan ~~defined benefit~~
2037 program, subject to recomputation under subparagraph 2. 3. ~~3.~~ For
2038 state employees ~~enrolling under subparagraph (4)(a)1.~~, initial
2039 estimates shall ~~will~~ be based upon creditable service and
2040 average final compensation as of midnight on June 30, 2002; for
2041 district school board employees ~~enrolling under subparagraph~~
2042 ~~(4)(b)1.~~, initial estimates shall ~~will~~ be based upon creditable



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2043 service and average final compensation as of midnight on
2044 September 30, 2002; and for local government employees ~~enrolling~~
2045 ~~under subparagraph (4)(c)1.~~, initial estimates shall ~~will~~ be
2046 based upon creditable service and average final compensation as
2047 of midnight on December 31, 2002. The dates ~~respectively~~
2048 specified are ~~above shall be construed as~~ the "estimate date"
2049 for these employees. The actuarial present value of the
2050 employee's accumulated benefit obligation shall be based on the
2051 following:

2052 a. The discount rate and other relevant actuarial
2053 assumptions used to value the Florida Retirement System Trust
2054 Fund at the time the amount to be transferred is determined,
2055 consistent with the factors provided in sub-subparagraphs b. and
2056 c.

2057 b. A benefit commencement age, based on the member's
2058 estimated creditable service as of the estimate date. The
2059 benefit commencement age is ~~shall be~~ the younger of the
2060 following, but may ~~shall~~ not be younger than the member's age as
2061 of the estimate date:

2062 (I) Age 62; or

2063 (II) The age the member would attain if the member
2064 completed 30 years of service with an employer, assuming the
2065 member worked continuously from the estimate date, and
2066 disregarding any vesting requirement that would otherwise apply
2067 under the pension plan ~~defined benefit program of the Florida~~
2068 ~~Retirement System.~~

2069 c. For members of the Special Risk Class, and for members
2070 of the Special Risk Administrative Support Class entitled to
2071 retain the special risk normal retirement date, the benefit



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2072 commencement age is ~~shall be~~ the younger of the following, but
2073 may shall not be younger than the member's age as of the
2074 estimate date:

2075 (I) Age 55; or

2076 (II) The age the member would attain if the member
2077 completed 25 years of service with an employer, assuming the
2078 member worked continuously from the estimate date, and
2079 disregarding any vesting requirement that would otherwise apply
2080 under the pension plan ~~defined benefit program of the Florida~~
2081 ~~Retirement System.~~

2082 d. The calculation must ~~shall~~ disregard vesting
2083 requirements and early retirement reduction factors that would
2084 otherwise apply under the pension plan ~~defined benefit~~
2085 ~~retirement program.~~

2086 ~~2.3.~~ For each member ~~participant~~ who elects to transfer
2087 moneys from the pension plan ~~defined benefit program~~ to his or
2088 her account in the investment plan ~~optional program~~, the
2089 division shall recompute the amount transferred under
2090 subparagraph 1. ~~within 2.~~ ~~not later than~~ 60 days after the
2091 actual transfer of funds based upon the member's ~~participant's~~
2092 actual creditable service and actual final average compensation
2093 as of the initial date of participation in the investment plan
2094 ~~optional program~~. If the recomputed amount differs from the
2095 amount transferred ~~under subparagraph 2.~~ by \$10 or more, the
2096 division shall:

2097 a. Transfer, or cause to be transferred, from the Florida
2098 Retirement System Trust Fund to the member's ~~participant's~~
2099 account ~~in the optional program~~ the excess, if any, of the
2100 recomputed amount over the previously transferred amount



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2101 together with interest from the initial date of transfer to the
2102 date of transfer under this subparagraph, based upon the
2103 effective annual interest equal to the assumed return on the
2104 actuarial investment which was used in the most recent actuarial
2105 valuation of the system, compounded annually.

2106 b. Transfer, or cause to be transferred, from the member's
2107 ~~participant's~~ account to the Florida Retirement System Trust
2108 Fund the excess, if any, of the previously transferred amount
2109 over the recomputed amount, together with interest from the
2110 initial date of transfer to the date of transfer under this
2111 subparagraph, based upon 6 percent effective annual interest,
2112 compounded annually, pro rata based on the member's
2113 ~~participant's~~ allocation plan.

2114 3. If contribution adjustments are made as a result of
2115 employer errors or corrections, including plan corrections,
2116 following recomputation of the amount transferred under
2117 subparagraph 1., the member is entitled to the additional
2118 contributions or is responsible for returning any excess
2119 contributions resulting from the correction if the return of
2120 such contributions by the plan is made within 1 year after the
2121 making of the erroneous contributions or such other period
2122 allowed by applicable Internal Revenue Service guidance. The
2123 present value of the member's accumulated benefit obligation may
2124 not be recalculated.

2125 4. As directed by the member participant, the state board
2126 shall transfer or cause to be transferred the appropriate
2127 amounts to the designated accounts within. ~~The board shall~~
2128 ~~establish transfer procedures by rule, but the actual transfer~~
2129 ~~shall not be later than 30 days after the effective date of the~~



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2130 member's participation in the investment plan ~~optional program~~
2131 unless the major financial markets for securities available for
2132 a transfer are seriously disrupted by an unforeseen event that
2133 ~~which also~~ causes the suspension of trading on any national
2134 securities exchange in the country where the securities are ~~were~~
2135 issued. In that event, the ~~such~~ 30-day period ~~of time~~ may be
2136 extended by a resolution of the state board ~~trustees~~. The state
2137 board shall establish transfer procedures by rule. Transfers are
2138 not commissionable or subject to other fees and may be in the
2139 form of securities or cash, as determined by the state board.
2140 Such securities are ~~shall be~~ valued as of the date of receipt in
2141 the member's ~~participant's~~ account.

2142 5. If the state board or the division receives notification
2143 from the United States Internal Revenue Service that this
2144 paragraph or any portion of this paragraph will cause the
2145 retirement system, or a portion thereof, to be disqualified for
2146 tax purposes under the Internal Revenue Code, ~~then~~ the portion
2147 that will cause the disqualification does not apply. Upon such
2148 notice, the state board and the division shall notify the
2149 presiding officers of the Legislature.

2150 (4) PARTICIPATION; ENROLLMENT.—

2151 (a) ~~1.~~ With respect to an eligible employee who is employed
2152 in a regularly established position by a state employer after ~~on~~
2153 June 1, 2002; by a district school board employer after
2154 September 1, 2002; or by a local employer after December 1,
2155 2002, but before July 1, 2011, the, ~~by a state employer:~~

2156 ~~a. Any such employee may elect to participate in the Public~~
2157 ~~Employee Optional Retirement Program in lieu of retaining his or~~
2158 ~~her membership in the defined benefit program of the Florida~~



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2159 ~~Retirement System. The election must be made in writing or by~~
2160 ~~electronic means and must be filed with the third-party~~
2161 ~~administrator by August 31, 2002, or, in the case of an active~~
2162 ~~employee who is on a leave of absence on April 1, 2002, by the~~
2163 ~~last business day of the 5th month following the month the leave~~
2164 ~~of absence concludes. This election is irrevocable, except as~~
2165 ~~provided in paragraph (c). Upon making such election, the~~
2166 ~~employee shall be enrolled as a participant of the Public~~
2167 ~~Employee Optional Retirement Program, the employee's membership~~
2168 ~~in the Florida Retirement System shall be governed by the~~
2169 ~~provisions of this part, and the employee's membership in the~~
2170 ~~defined benefit program of the Florida Retirement System shall~~
2171 ~~terminate. The employee's enrollment in the Public Employee~~
2172 ~~Optional Retirement Program shall be effective the first day of~~
2173 ~~the month for which a full month's employer contribution is made~~
2174 ~~to the optional program.~~

2175 ~~b. Any such employee who fails to elect to participate in~~
2176 ~~the Public Employee Optional Retirement Program within the~~
2177 ~~prescribed time period is deemed to have elected to retain~~
2178 ~~membership in the defined benefit program of the Florida~~
2179 ~~Retirement System, and the employee's option to elect to~~
2180 ~~participate in the optional program is forfeited.~~

2181 ~~2. With respect to employees who become eligible to~~
2182 ~~participate in the Public Employee Optional Retirement Program~~
2183 ~~by reason of employment in a regularly established position with~~
2184 ~~a state employer commencing after April 1, 2002:~~

2185 ~~a. Any such employee shall, by default, be enrolled in the~~
2186 ~~pension plan defined benefit retirement program of the Florida~~
2187 ~~Retirement System at the commencement of employment, and may, by~~



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2188 the last business day of the 5th month following the employee's
2189 month of hire, elect to enroll ~~participate~~ in the investment
2190 plan ~~Public Employee Optional Retirement Program~~. The employee's
2191 election must be made in writing or by electronic means and must
2192 be filed with the third-party administrator. The election to
2193 enroll ~~participate~~ in the investment plan ~~optional program~~ is
2194 irrevocable, except as provided in paragraph (e).

2195 ~~1.b.~~ If the employee files such election within the
2196 prescribed time period, enrollment in the investment plan is
2197 ~~optional program~~ shall be effective on the first day of
2198 employment. The employer and employee ~~retirement~~ contributions
2199 paid through the month of the employee plan change shall be
2200 transferred to the investment plan ~~optional program~~, and,
2201 effective the first day of the next month, the employer and
2202 employee must ~~shall~~ pay the applicable contributions based on
2203 the employee membership class in the plan ~~optional program~~.

2204 ~~2.c.~~ An Any such employee who fails to elect to enroll
2205 ~~participate~~ in the investment plan ~~Public Employee Optional~~
2206 ~~Retirement Program~~ within the prescribed time period is deemed
2207 to have elected to retain membership in the pension plan ~~defined~~
2208 ~~benefit program of the Florida Retirement System~~, and the
2209 employee's option to elect to enroll ~~participate~~ in the
2210 investment plan ~~optional program~~ is forfeited.

2211 3. With respect to employees who become eligible to enroll
2212 ~~participate~~ in the investment plan ~~Public Employee Optional~~
2213 ~~Retirement Program~~ pursuant to s. 121.051(2)(c)3. or s.
2214 121.35(3)(i), the any such employee may elect to enroll
2215 ~~participate~~ in the investment plan ~~Public Employee Optional~~
2216 ~~Retirement Program~~ in lieu of retaining his or her participation



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2217 in the State Community College System Optional Retirement
2218 Program or the State University System Optional Retirement
2219 Program. The election must be made in writing or by electronic
2220 means and must be filed with the third-party administrator. This
2221 election is irrevocable, except as provided in paragraph (e).
2222 Upon making such election, the employee shall be enrolled in as
2223 ~~a participant of the investment plan Public Employee Optional~~
2224 ~~Retirement Program~~, the employee's membership in the Florida
2225 Retirement System shall be governed by the provisions of this
2226 part, and the employee's participation in the State Community
2227 College System Optional Retirement Program or the State
2228 University System Optional Retirement Program shall terminate.
2229 The employee's enrollment in the investment plan is Public
2230 ~~Employee Optional Retirement Program shall be effective on the~~
2231 first day of the month for which a full month's employer
2232 employee contributions are ~~contribution is~~ made to the
2233 investment plan optional program.

2234 ~~4. For purposes of this paragraph, "state employer" means~~
2235 ~~any agency, board, branch, commission, community college,~~
2236 ~~department, institution, institution of higher education, or~~
2237 ~~water management district of the state, which participates in~~
2238 ~~the Florida Retirement System for the benefit of certain~~
2239 ~~employees.~~

2240 ~~(b)1. With respect to an eligible employee who is employed~~
2241 ~~in a regularly established position on September 1, 2002, by a~~
2242 ~~district school board employer:~~

2243 ~~a. Any such employee may elect to participate in the Public~~
2244 ~~Employee Optional Retirement Program in lieu of retaining his or~~
2245 ~~her membership in the defined benefit program of the Florida~~



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2246 ~~Retirement System. The election must be made in writing or by~~
2247 ~~electronic means and must be filed with the third-party~~
2248 ~~administrator by November 30, or, in the case of an active~~
2249 ~~employee who is on a leave of absence on July 1, 2002, by the~~
2250 ~~last business day of the 5th month following the month the leave~~
2251 ~~of absence concludes. This election is irrevocable, except as~~
2252 ~~provided in paragraph (c). Upon making such election, the~~
2253 ~~employee shall be enrolled as a participant of the Public~~
2254 ~~Employee Optional Retirement Program, the employee's membership~~
2255 ~~in the Florida Retirement System shall be governed by the~~
2256 ~~provisions of this part, and the employee's membership in the~~
2257 ~~defined benefit program of the Florida Retirement System shall~~
2258 ~~terminate. The employee's enrollment in the Public Employee~~
2259 ~~Optional Retirement Program shall be effective the first day of~~
2260 ~~the month for which a full month's employer contribution is made~~
2261 ~~to the optional program.~~

2262 ~~b. Any such employee who fails to elect to participate in~~
2263 ~~the Public Employee Optional Retirement Program within the~~
2264 ~~prescribed time period is deemed to have elected to retain~~
2265 ~~membership in the defined benefit program of the Florida~~
2266 ~~Retirement System, and the employee's option to elect to~~
2267 ~~participate in the optional program is forfeited.~~

2268 ~~2. With respect to employees who become eligible to~~
2269 ~~participate in the Public Employee Optional Retirement Program~~
2270 ~~by reason of employment in a regularly established position with~~
2271 ~~a district school board employer commencing after July 1, 2002:~~

2272 ~~a. Any such employee shall, by default, be enrolled in the~~
2273 ~~defined benefit retirement program of the Florida Retirement~~
2274 ~~System at the commencement of employment, and may, by the last~~



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2275 ~~business day of the 5th month following the employee's month of~~
2276 ~~hire, elect to participate in the Public Employee Optional~~
2277 ~~Retirement Program. The employee's election must be made in~~
2278 ~~writing or by electronic means and must be filed with the third-~~
2279 ~~party administrator. The election to participate in the optional~~
2280 ~~program is irrevocable, except as provided in paragraph (c).~~

2281 ~~b. If the employee files such election within the~~
2282 ~~prescribed time period, enrollment in the optional program shall~~
2283 ~~be effective on the first day of employment. The employer~~
2284 ~~retirement contributions paid through the month of the employee~~
2285 ~~plan change shall be transferred to the optional program, and,~~
2286 ~~effective the first day of the next month, the employer shall~~
2287 ~~pay the applicable contributions based on the employee~~
2288 ~~membership class in the optional program.~~

2289 ~~e. Any such employee who fails to elect to participate in~~
2290 ~~the Public Employee Optional Retirement Program within the~~
2291 ~~prescribed time period is deemed to have elected to retain~~
2292 ~~membership in the defined benefit program of the Florida~~
2293 ~~Retirement System, and the employee's option to elect to~~
2294 ~~participate in the optional program is forfeited.~~

2295 ~~3. For purposes of this paragraph, "district school board~~
2296 ~~employer" means any district school board that participates in~~
2297 ~~the Florida Retirement System for the benefit of certain~~
2298 ~~employees, or a charter school or charter technical career~~
2299 ~~center that participates in the Florida Retirement System as~~
2300 ~~provided in s. 121.051(2)(d).~~

2301 ~~(c)1. With respect to an eligible employee who is employed~~
2302 ~~in a regularly established position on December 1, 2002, by a~~
2303 ~~local employer:~~



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2304 ~~a. Any such employee may elect to participate in the Public~~
2305 ~~Employee Optional Retirement Program in lieu of retaining his or~~
2306 ~~her membership in the defined benefit program of the Florida~~
2307 ~~Retirement System. The election must be made in writing or by~~
2308 ~~electronic means and must be filed with the third-party~~
2309 ~~administrator by February 28, 2003, or, in the case of an active~~
2310 ~~employee who is on a leave of absence on October 1, 2002, by the~~
2311 ~~last business day of the 5th month following the month the leave~~
2312 ~~of absence concludes. This election is irrevocable, except as~~
2313 ~~provided in paragraph (e). Upon making such election, the~~
2314 ~~employee shall be enrolled as a participant of the Public~~
2315 ~~Employee Optional Retirement Program, the employee's membership~~
2316 ~~in the Florida Retirement System shall be governed by the~~
2317 ~~provisions of this part, and the employee's membership in the~~
2318 ~~defined benefit program of the Florida Retirement System shall~~
2319 ~~terminate. The employee's enrollment in the Public Employee~~
2320 ~~Optional Retirement Program shall be effective the first day of~~
2321 ~~the month for which a full month's employer contribution is made~~
2322 ~~to the optional program.~~

2323 ~~b. Any such employee who fails to elect to participate in~~
2324 ~~the Public Employee Optional Retirement Program within the~~
2325 ~~prescribed time period is deemed to have elected to retain~~
2326 ~~membership in the defined benefit program of the Florida~~
2327 ~~Retirement System, and the employee's option to elect to~~
2328 ~~participate in the optional program is forfeited.~~

2329 ~~2. With respect to employees who become eligible to~~
2330 ~~participate in the Public Employee Optional Retirement Program~~
2331 ~~by reason of employment in a regularly established position with~~
2332 ~~a local employer commencing after October 1, 2002:~~



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2333 ~~a. Any such employee shall, by default, be enrolled in the~~
2334 ~~defined benefit retirement program of the Florida Retirement~~
2335 ~~System at the commencement of employment, and may, by the last~~
2336 ~~business day of the 5th month following the employee's month of~~
2337 ~~hire, elect to participate in the Public Employee Optional~~
2338 ~~Retirement Program. The employee's election must be made in~~
2339 ~~writing or by electronic means and must be filed with the third-~~
2340 ~~party administrator. The election to participate in the optional~~
2341 ~~program is irrevocable, except as provided in paragraph (c).~~

2342 ~~b. If the employee files such election within the~~
2343 ~~prescribed time period, enrollment in the optional program shall~~
2344 ~~be effective on the first day of employment. The employer~~
2345 ~~retirement contributions paid through the month of the employee~~
2346 ~~plan change shall be transferred to the optional program, and,~~
2347 ~~effective the first day of the next month, the employer shall~~
2348 ~~pay the applicable contributions based on the employee~~
2349 ~~membership class in the optional program.~~

2350 ~~e. Any such employee who fails to elect to participate in~~
2351 ~~the Public Employee Optional Retirement Program within the~~
2352 ~~prescribed time period is deemed to have elected to retain~~
2353 ~~membership in the defined benefit program of the Florida~~
2354 ~~Retirement System, and the employee's option to elect to~~
2355 ~~participate in the optional program is forfeited.~~

2356 ~~3. For purposes of this paragraph, "local employer" means~~
2357 ~~any employer not included in paragraph (a) or paragraph (b).~~

2358 ~~(b) (d)~~ Contributions available for self-direction by a
2359 member participant who has not selected one or more specific
2360 investment products shall be allocated as prescribed by the
2361 state board. The third-party administrator shall notify the



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2362 member ~~any such participant~~ at least quarterly that the member
2363 ~~participant~~ should take an affirmative action to make an asset
2364 allocation among the investment plan ~~optional program~~ products.

2365 (c) On or after July 1, 2011, a member of the pension plan
2366 who obtains a refund of employee contributions retains his or
2367 her prior plan choice upon return to employment in a regularly
2368 established position with a participating employer.

2369 (d) A member of the investment plan who takes a
2370 distribution of any contributions from his investment plan
2371 account is considered a retiree. Upon reemployment in a
2372 regularly established position with a participating employer,
2373 the member returns as a new hire and, if applicable, may
2374 participate in the Florida Retirement System.

2375 (e) After the period during which an eligible employee had
2376 the choice to elect the pension plan ~~defined benefit program~~ or
2377 the investment plan ~~optional retirement program~~, or the month
2378 following the receipt of the eligible employee's plan election,
2379 if sooner, the employee shall have one opportunity, at the
2380 employee's discretion, to choose to move from the pension plan
2381 ~~defined benefit program~~ to the investment plan ~~optional~~
2382 ~~retirement program~~ or from the investment plan ~~optional~~
2383 ~~retirement program~~ to the pension plan ~~defined benefit program~~.
2384 Eligible employees may elect to move between Florida Retirement
2385 System programs only if they are earning service credit in an
2386 employer-employee relationship consistent with s.
2387 121.021(17)(b), excluding leaves of absence without pay.
2388 Effective July 1, 2005, such elections are effective on the
2389 first day of the month following the receipt of the election by
2390 the third-party administrator and are not subject to the



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2391 requirements regarding an employer-employee relationship or
2392 receipt of contributions for the eligible employee in the
2393 effective month, except when the election is received by the
2394 third-party administrator. This paragraph is contingent upon
2395 receiving approval from the Internal Revenue Service to include
2396 ~~for including~~ the choice described herein within the programs
2397 offered by the Florida Retirement System.

2398 1. If the employee chooses to move to the investment plan
2399 ~~optional retirement program~~, the applicable provisions of
2400 subsection (3) ~~this section shall~~ govern the transfer.

2401 2. If the employee chooses to move to the pension plan
2402 ~~defined benefit program~~, the employee must transfer from his or
2403 her investment plan ~~optional retirement program~~ account, and
2404 from other employee moneys as necessary, a sum representing the
2405 present value of that employee's accumulated benefit obligation
2406 immediately following the time of such movement, determined
2407 assuming that attained service equals the sum of service in the
2408 pension plan ~~defined benefit program~~ and service in the
2409 investment plan ~~optional retirement program~~. Benefit
2410 commencement occurs on the first date the employee is eligible
2411 for unreduced benefits, using the discount rate and other
2412 relevant actuarial assumptions that were used to value the
2413 pension ~~defined benefit~~ plan liabilities in the most recent
2414 actuarial valuation. For any employee who, at the time of the
2415 second election, already maintains an accrued benefit amount in
2416 the pension plan ~~defined benefit program~~, the then-present value
2417 of the accrued benefit shall be deemed part of the required
2418 transfer amount. The division shall ensure that the transfer sum
2419 is prepared using a formula and methodology certified by an



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2420 enrolled actuary. A refund of any employee contributions or
2421 additional employee payments which exceed the employee
2422 contributions that would have accrued had the employee remained
2423 in the pension plan and not transferred to the investment plan
2424 is not permitted.

2425 3. Notwithstanding subparagraph 2., an employee who chooses
2426 to move to the pension plan defined benefit program and who
2427 ~~became eligible to participate in the optional retirement~~
2428 ~~program by reason of employment in a regularly established~~
2429 ~~position with a state employer after June 1, 2002; a district~~
2430 ~~school board employer after September 1, 2002; or a local~~
2431 ~~employer after December 1, 2002,~~ must transfer from his or her
2432 investment plan optional retirement program account, and from
2433 other employee moneys as necessary, a sum representing the
2434 employee's actuarial accrued liability. A refund of any employee
2435 contributions or additional employee payments which exceed the
2436 employee contributions that would have accrued had the employee
2437 remained in the pension plan and not transferred to the
2438 investment plan is not permitted.

2439 4. An employee's ability to transfer from the pension plan
2440 ~~defined benefit program~~ to the investment plan optional
2441 ~~retirement program~~ pursuant to paragraphs (a) and (b) ~~(a)-(d)~~,
2442 and the ability of a current employee to have an option to later
2443 transfer back into the pension plan defined benefit program
2444 under subparagraph 2., shall be deemed a significant system
2445 amendment. Pursuant to s. 121.031(4), any resulting unfunded
2446 liability arising from actual original transfers from the
2447 pension plan defined benefit program to the investment plan
2448 ~~optional program~~ must be amortized within 30 plan years as a



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2449 separate unfunded actuarial base independent of the reserve
2450 stabilization mechanism defined in s. 121.031(3)(f). For the
2451 first 25 years, a direct amortization payment may not be
2452 calculated for this base. During this 25-year period, the
2453 separate base shall be used to offset the impact of employees
2454 exercising their second program election under this paragraph.
2455 It is the intent of the Legislature that the actuarial funded
2456 status of the pension plan ~~defined benefit program~~ not be
2457 affected by such second program elections in any significant
2458 manner, after due recognition of the separate unfunded actuarial
2459 base. Following the initial 25-year period, any remaining
2460 balance of the original separate base shall be amortized over
2461 the remaining 5 years of the required 30-year amortization
2462 period.

2463 5. If the employee chooses to transfer from the investment
2464 plan ~~optional retirement program~~ to the pension plan ~~defined~~
2465 ~~benefit program~~ and retains an excess account balance in the
2466 investment plan ~~optional program~~ after satisfying the buy-in
2467 requirements under this paragraph, the excess may not be
2468 distributed until the member retires from the pension plan
2469 ~~defined benefit program~~. The excess account balance may be
2470 rolled over to the pension plan ~~defined benefit program~~ and used
2471 to purchase service credit or upgrade creditable service in that
2472 program.

2473 (f) On or after July 1, 2011, an employee in the pension
2474 plan who obtains a refund of employee contributions shall retain
2475 his or her prior plan choice upon return to employment in a
2476 regularly established position with an employer participating in
2477 the Florida Retirement System.



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2478 (g) A member who terminates covered employment in the
2479 Florida Retirement System and takes a distribution of any
2480 contributions from his investment plan account is considered a
2481 retiree. Upon reemployment in a regularly established position
2482 with a covered employer, the retiree returns as a new hire and,
2483 if applicable, may participate in the Florida Retirement System.

2484 (h) All eligible employees initially enrolled on or after
2485 July 1, 2011, except those who are eligible to and elect to
2486 enroll in an optional retirement program established under s.
2487 121.055(6), s. 121.35, or s. 1012.875, are compulsory members of
2488 the investment plan and membership in the pension plan is not
2489 permitted except as provided in s. 121.591. Such employees may
2490 not use the election opportunity specified in paragraph (e).

2491 (5) CONTRIBUTIONS.—

2492 (a) The ~~Each~~ employer and employee shall make the required
2493 contributions to the investment plan based on a percentage of
2494 the employee's gross monthly compensation ~~contribute on behalf~~
2495 of each participant in the ~~Public Employee optional retirement~~
2496 Program, as provided in part III of this chapter.

2497 (b) Employee contributions shall be paid on a pretax basis,
2498 as provided in s. 401 of the Internal Revenue Code. Such
2499 contributions may not exceed federal limitations. An employee is
2500 responsible for monitoring his or her individual contributions
2501 to ensure that he or she does not exceed the maximum deferral
2502 amounts permitted under the Internal Revenue Code. A employee's
2503 total contribution equals the sum of all amounts deducted from
2504 the employee's salary by his or her employer in accordance with
2505 s. 121.71(2) and credited to his or her individual account in
2506 the investment plan, plus any earnings on such amounts and any



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2507 contributions specified in paragraph (e).

2508 (c) The state board, acting as plan fiduciary, shall ensure
2509 that all plan assets are held in a trust, pursuant to s. 401 of
2510 the Internal Revenue Code. The fiduciary shall ensure that said
2511 contributions are allocated as follows:

2512 1. The employer and employee portion earmarked for member
2513 ~~participant~~ accounts shall be used to purchase interests in the
2514 appropriate investment vehicles ~~for the accounts of each~~
2515 ~~participant~~ as specified by the member participant, or in
2516 accordance with paragraph (4) (b) ~~(4) (d)~~.

2517 2. The employer portion earmarked for administrative and
2518 educational expenses shall be transferred to the state board.

2519 3. The employer portion earmarked for disability benefits
2520 shall be transferred to the department.

2521 ~~(d) (b)~~ Employers are responsible for notifying employees
2522 ~~participants~~ regarding maximum contribution levels authorized
2523 ~~permitted~~ under the Internal Revenue Code. If a member
2524 ~~participant~~ contributes to any other tax-deferred plan, he or
2525 she is responsible for ensuring that total contributions made to
2526 the investment plan optional program and to any other such plan
2527 do not exceed federally permitted maximums.

2528 ~~(e) (e)~~ The investment plan ~~Public Employee Optional~~
2529 ~~Retirement Program~~ may accept for deposit into member
2530 ~~participant~~ accounts contributions in the form of rollovers or
2531 direct trustee-to-trustee transfers by or on behalf of members
2532 ~~participants~~, reasonably determined by the state board to be
2533 eligible for rollover or transfer to the investment plan
2534 ~~optional retirement program~~ pursuant to the Internal Revenue
2535 Code, if such contributions are made in accordance with rules ~~as~~



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2536 ~~may be~~ adopted by the board. Such contributions must ~~shall~~ be
2537 accounted for in accordance with ~~any~~ applicable Internal Revenue
2538 Code requirements and rules of the state board.

2539 (6) VESTING REQUIREMENTS.—

2540 (a) A member is fully and immediately vested in all
2541 employee contributions paid to the investment plan as provided
2542 in s. 121.72(2), plus interest and earnings thereon and less
2543 investment fees and administrative charges.

2544 (b) ~~(a)~~1. With respect to employer contributions paid on
2545 behalf of a member of the participant to the investment plan
2546 optional retirement program, plus interest and earnings thereon
2547 and less investment fees and administrative charges, a member
2548 who voluntarily elected to enroll in the investment plan before
2549 July 1, 2011, or an eligible employee initially enrolled in the
2550 Florida Retirement System before July 1, 2011, who has the
2551 option to voluntarily elect to enroll in the investment plan,
2552 participant is vested after completing 1 work year with an
2553 employer, including any service while the employee participant
2554 was a member of the pension plan defined benefit program or an
2555 optional retirement program authorized under s. 121.051(2)(c),
2556 or s. 121.055(6), or s. 121.35.

2557 2. With respect to employer contributions paid on behalf of
2558 the member of the investment plan, plus interest and earnings
2559 thereon and less investment fees and administrative charges, an
2560 employee initially enrolled in the Florida Retirement System on
2561 or after July 1, 2011, is vested according to the following
2562 schedule:

- 2563 a. Prior to completion of 3 years of service.....0%
2564 b. Upon completion of 3 years of service.....40%



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- 2565 c. Upon completion of 4 years of service.....80%
- 2566 d. Upon completion of 5 or more years of service.....100%

2567

2568 Years of service includes any service completed while the
2569 employee was a member of the pension plan or an optional
2570 retirement program authorized under s. 121.051(2)(c), s.
2571 121.055(6), or s. 121.35.

2572 ~~3.2.~~ If the member participant terminates employment before
2573 satisfying the vesting requirements, the nonvested accumulation
2574 must be transferred from the member's participant's accounts to
2575 the state board for deposit and investment by the state board in
2576 the suspense account created within the Florida Public Employee
2577 Optional Retirement System Investment Plan Program Trust Fund.
2578 If the terminated member participant is reemployed as an
2579 eligible employee within 5 years, the state board shall transfer
2580 to the member's participant's account any amount previously
2581 transferred from the member's participant's accounts to the
2582 suspense account, plus actual earnings on such amount while in
2583 the suspense account.

2584 ~~(c)(b)~~1. With respect to amounts transferred from the
2585 pension plan defined benefit program to the investment plan
2586 program, plus interest and earnings, and less investment fees
2587 and administrative charges, a member participant shall be vested
2588 in the employer amount transferred upon meeting the service
2589 requirements for the employee's participant's membership class
2590 as set forth in s. 121.021(29). The third-party administrator
2591 shall account for such amounts for each member participant. The
2592 division shall notify the member participant and the third-party
2593 administrator when the member participant has satisfied the



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2594 vesting period for Florida Retirement System purposes.

2595 2. If the member participant terminates employment before
2596 satisfying the vesting requirements, the nonvested employer
2597 accumulation must be transferred from the member's participant's
2598 accounts to the state board for deposit and investment by the
2599 state board in the suspense account created within the Florida
2600 Public Employee Optional Retirement System Investment Plan
2601 Program Trust Fund. If the terminated member participant is
2602 reemployed as an eligible employee within 5 years, the state
2603 board shall transfer to the member's participant's account any
2604 amount previously transferred from the member's participant's
2605 accounts to the suspense account, plus the actual earnings on
2606 such amount while in the suspense account.

2607 (d) (e) Any nonvested accumulations transferred from a
2608 member's participant's account to the state board's suspense
2609 account, including any accompanying services credit, shall be
2610 forfeited by the member participant if the member participant is
2611 not reemployed as an eligible employee within 5 years after
2612 termination.

2613 (e) If the member elects to receive any of his or her
2614 vested employer or employee contributions upon termination of
2615 employment as defined in s. 121.021, except for a mandatory
2616 distribution of a de minimis account authorized by the state
2617 board or a minimum required distribution provided by s.
2618 401(a) (9) of the Internal Revenue Code, the employee shall
2619 forfeit all nonvested employer contributions and accompanying
2620 service credit paid on behalf of the employee to the investment
2621 plan.

2622 (7) BENEFITS.—Under the investment plan the normal



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2623 retirement date is the date on which a member attains age 62 or
2624 completes 5 years of service, whichever occurs later. Plan
2625 benefits must ~~Public Employee Optional Retirement program:~~

2626 (a) ~~Benefits shall~~ Be provided in accordance with s. 401(a)
2627 of the Internal Revenue Code.

2628 (b) ~~Benefits shall~~ Accrue in individual accounts that are
2629 member-directed ~~participant-directed~~, portable, and funded by
2630 employer contributions and earnings thereon.

2631 (c) ~~Benefits shall~~ Be payable in accordance with ~~the~~
2632 ~~provisions of~~ s. 121.591.

2633 (8) ADMINISTRATION OF PLAN PROGRAM.—

2634 ~~(a)~~ The investment plan ~~optional retirement program~~ shall
2635 be administered by the state board and affected employers. The
2636 state board may require oaths, by affidavit or otherwise, and
2637 acknowledgments from persons in connection with the
2638 administration of its statutory duties and responsibilities for
2639 the plan ~~this program~~. An oath, by affidavit or otherwise, may
2640 not be required of an employee ~~participant~~ at the time of
2641 enrollment. For members enrolled before July 1, 2011,
2642 acknowledgment of an employee's election to enroll ~~participate~~
2643 in the plan ~~may program shall~~ be no greater than necessary to
2644 confirm the employee's election. The state board shall adopt
2645 rules to carry out its statutory duties with respect to
2646 administering the investment plan ~~optional retirement program~~,
2647 including ~~establishing~~ the roles and responsibilities of
2648 affected state, local government, and education-related
2649 employers, the state board, the department, and third-party
2650 contractors. The department shall adopt rules necessary to
2651 administer the investment plan ~~optional program~~ in coordination



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2652 with the pension plan ~~defined benefit program~~ and the disability
2653 benefits available under the investment plan ~~optional program~~.

2654 ~~(a) (b)~~ 1. The state board shall select and contract with a
2655 ~~one~~ third-party administrator to provide administrative services
2656 if those services cannot be competitively and contractually
2657 provided by the division ~~of Retirement within the Department of~~
2658 ~~Management Services~~. With the approval of the state board, the
2659 third-party administrator may subcontract ~~with other~~
2660 ~~organizations or individuals~~ to provide components of the
2661 administrative services. As a cost of administration, the state
2662 board may compensate ~~any~~ such contractor for its services, in
2663 accordance with the terms of the contract, as is deemed
2664 necessary or proper by the board. The third-party administrator
2665 may not be an approved provider or be affiliated with an
2666 approved provider.

2667 2. These administrative services may include, but are not
2668 limited to, enrollment of eligible employees, collection of
2669 employer and employee contributions, disbursement of ~~such~~
2670 contributions to approved providers in accordance with the
2671 allocation directions of members ~~participants~~; services relating
2672 to consolidated billing; individual and collective recordkeeping
2673 and accounting; asset purchase, control, and safekeeping; and
2674 direct disbursement of funds to and from the third-party
2675 administrator, the division, the state board, employers, plan
2676 members ~~participants~~, approved providers, and beneficiaries.
2677 This section does not prevent or prohibit a bundled provider
2678 from providing any administrative or customer service, including
2679 accounting and administration of individual member ~~participant~~
2680 benefits and contributions; individual member ~~participant~~



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2681 recordkeeping; asset purchase, control, and safekeeping; direct
2682 execution of the member's ~~participant's~~ instructions as to asset
2683 and contribution allocation; calculation of daily net asset
2684 values; direct access to member ~~participant~~ account information;
2685 or periodic reporting to members ~~participants~~, at least
2686 quarterly, on account balances and transactions, if these
2687 services are authorized by the state board as part of the
2688 contract.

2689 (b)1.3. The state board shall select and contract with one
2690 or more organizations to provide educational services. With
2691 approval of the state board, the organizations may subcontract
2692 ~~with other organizations or individuals~~ to provide components of
2693 the educational services. As a cost of administration, the state
2694 board may compensate any such contractor for its services in
2695 accordance with the terms of the contract, as is deemed
2696 necessary or proper by the board. The education organization may
2697 not be an approved provider or be affiliated with an approved
2698 provider.

2699 2.4. Educational services shall be designed by the state
2700 board and department to assist employers, eligible employees,
2701 members ~~participants~~, and beneficiaries in order to maintain
2702 compliance with United States Department of Labor regulations
2703 under s. 404(c) of the Employee Retirement Income Security Act
2704 of 1974, ~~and~~ to assist employees in understanding their ~~choice~~
2705 ~~of defined benefit or defined contribution retirement program,~~
2706 and, if applicable, the choice between the pension plan and the
2707 investment plan alternatives. Educational services include, but
2708 are not limited to, disseminating educational materials;
2709 providing retirement planning education; explaining the pension



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2710 ~~differences between the defined benefit retirement plan and the~~
2711 ~~investment defined contribution retirement plan; and offering~~
2712 financial planning guidance on matters such as investment
2713 diversification, investment risks, investment costs, and asset
2714 allocation. An approved provider may also provide educational
2715 information, including retirement planning and investment
2716 allocation information concerning its products and services.

2717 (c)1. In evaluating and selecting a third-party
2718 administrator, the state board shall establish criteria for
2719 evaluating ~~under which it shall consider~~ the relative
2720 capabilities and qualifications of each proposed administrator.
2721 In developing such criteria, the state board shall consider:

2722 a. The administrator's demonstrated experience in providing
2723 administrative services to public or private sector retirement
2724 systems.

2725 b. The administrator's demonstrated experience in providing
2726 daily valued recordkeeping for investment ~~to defined~~
2727 ~~contribution~~ plans.

2728 c. The administrator's ability and willingness to
2729 coordinate its activities with ~~the Florida Retirement System~~
2730 employers, the state board, and the division, and to supply to
2731 such employers, the board, and the division the information and
2732 data they require, including, but not limited to, monthly
2733 management reports, quarterly member participant reports, and ad
2734 hoc reports requested by the department or state board.

2735 d. The cost-effectiveness and levels of the administrative
2736 services provided.

2737 e. The administrator's ability to interact with the members
2738 ~~participants~~, the employers, the state board, the division, and



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2739 the providers; the means by which members ~~participants~~ may
2740 access account information, direct investment of contributions,
2741 make changes to their accounts, transfer moneys between
2742 available investment vehicles, and transfer moneys between
2743 investment products; and any fees that apply to such activities.

2744 f. Any other factor deemed necessary by the ~~Trustees of the~~
2745 state board ~~of Administration~~.

2746 2. In evaluating and selecting an educational provider, the
2747 state board shall establish criteria under which it shall
2748 consider the relative capabilities and qualifications of each
2749 proposed educational provider. In developing such criteria, the
2750 board shall consider:

2751 a. Demonstrated experience in providing educational
2752 services to public or private sector retirement systems.

2753 b. Ability and willingness to coordinate its activities
2754 with the ~~Florida Retirement System~~ employers, the state board,
2755 and the division, and to supply to such employers, the board,
2756 and the division the information and data they require,
2757 including, but not limited to, reports on educational contacts.

2758 c. The cost-effectiveness and levels of the educational
2759 services provided.

2760 d. Ability to provide educational services via different
2761 media, including, but not limited to, the Internet, personal
2762 contact, seminars, brochures, and newsletters.

2763 e. Any other factor deemed necessary by the ~~Trustees of the~~
2764 state board ~~of Administration~~.

2765 3. The establishment of the criteria shall be solely within
2766 the discretion of the state board.

2767 (d) The state board shall develop the form and content of



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2768 any contracts to be offered under the investment plan ~~Public~~
2769 ~~Employee Optional Retirement Program~~. In developing the ~~its~~
2770 contracts, the board shall ~~must~~ consider:

2771 1. The nature and extent of the rights and benefits to be
2772 afforded in relation to the ~~required~~ contributions required
2773 under the plan ~~program~~.

2774 2. The suitability of the rights and benefits provided ~~to~~
2775 ~~be afforded~~ and the interests of employers in the recruitment
2776 and retention of eligible employees.

2777 (e)1. The state board may contract ~~with any consultant~~ for
2778 professional services, including legal, consulting, accounting,
2779 and actuarial services, deemed necessary to implement and
2780 administer the investment plan ~~optional program by the Trustees~~
2781 ~~of the state board of Administration~~. The board may enter into a
2782 contract with one or more vendors to provide low-cost investment
2783 advice to members ~~participants~~, supplemental to education
2784 provided by the third-party administrator. All fees under ~~any~~
2785 such contract shall be paid by those members ~~participants~~ who
2786 choose to use the services of the vendor.

2787 2. The department may contract ~~with consultants~~ for
2788 professional services, including legal, consulting, accounting,
2789 and actuarial services, deemed necessary to implement and
2790 administer the investment plan ~~optional program~~ in coordination
2791 with the pension plan ~~defined benefit program of the Florida~~
2792 ~~Retirement System~~. The department, in coordination with the
2793 state board, may enter into a contract with the third-party
2794 administrator in order to coordinate services common to the
2795 various programs within the Florida Retirement System.

2796 (f) The third-party administrator may ~~shall~~ not receive



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2797 direct or indirect compensation from an approved provider,
2798 except as specifically provided for in the contract with the
2799 state board.

2800 (g) The state board shall receive and resolve member
2801 ~~participant~~ complaints against the investment plan ~~program~~, the
2802 third-party administrator, or any plan ~~program~~ vendor or
2803 provider; shall resolve any conflict between the third-party
2804 administrator and an approved provider if such conflict
2805 threatens the implementation or administration of the plan
2806 ~~program~~ or the quality of services to employees; and may resolve
2807 any other conflicts. The third-party administrator shall retain
2808 all member ~~participant~~ records for at least 5 years for use in
2809 resolving any member ~~participant~~ conflicts. The state board, the
2810 third-party administrator, or a provider is not required to
2811 produce documentation or an audio recording to justify action
2812 taken with regard to a member ~~participant~~ if the action occurred
2813 5 or more years before the complaint is submitted to the ~~state~~
2814 board. It is presumed that all action taken 5 or more years
2815 before the complaint is submitted was taken at the request of
2816 the member ~~participant~~ and with the member's ~~participant's~~ full
2817 knowledge and consent. To overcome this presumption, the member
2818 ~~participant~~ must present documentary evidence or an audio
2819 recording demonstrating otherwise.

2820 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

2821 (a) The state board shall develop policy and procedures for
2822 selecting, evaluating, and monitoring the performance of
2823 approved providers and investment products ~~to which employees~~
2824 ~~may direct retirement contributions~~ under the investment plan
2825 ~~program~~. In accordance with such policy and procedures, the



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2826 state board shall designate and contract for a number of
2827 investment products as determined by the board. The board shall
2828 also select one or more bundled providers, each of which ~~whom~~
2829 may offer multiple investment options and related services, if
2830 ~~when~~ such ~~an~~ approach is determined by the board to provide
2831 ~~afford~~ value to the members ~~participants~~ otherwise not available
2832 through individual investment products. Each approved bundled
2833 provider may offer investment options that provide members
2834 ~~participants~~ with the opportunity to invest in each of the
2835 following asset classes, to be composed of individual options
2836 that represent ~~either~~ a single asset class or a combination
2837 thereof: money markets, United States fixed income, United
2838 States equities, and foreign stock. The state board shall review
2839 and manage all educational materials, contract terms, fee
2840 schedules, and other aspects of ~~the~~ approved provider
2841 relationships to ensure that no provider is unduly favored or
2842 penalized by virtue of its status within the investment plan.

2843 (b) The state board shall consider investment options or
2844 products it considers appropriate to give members ~~participants~~
2845 the opportunity to accumulate retirement benefits, subject to
2846 the following:

2847 1. The investment plan ~~Public Employee Optional Retirement~~
2848 ~~Program~~ must offer a diversified mix of low-cost investment
2849 products that span the risk-return spectrum and may include a
2850 guaranteed account as well as investment products, such as
2851 individually allocated guaranteed and variable annuities, which
2852 meet the requirements of this subsection and combine the ability
2853 to accumulate investment returns with the option of receiving
2854 lifetime income consistent with the long-term retirement



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2855 security of a pension plan and similar to the lifetime-income
2856 benefit provided by the Florida Retirement System.

2857 2. Investment options or products offered by ~~the group of~~
2858 approved providers may include mutual funds, group annuity
2859 contracts, individual retirement annuities, interests in trusts,
2860 collective trusts, separate accounts, and other such financial
2861 instruments, and ~~may include~~ products that give members
2862 ~~participants~~ the option of committing their contributions for an
2863 extended time period in an effort to obtain returns higher than
2864 those that could be obtained from investment products offering
2865 full liquidity.

2866 3. The state board may ~~shall~~ not contract with a any
2867 provider that imposes a front-end, back-end, contingent, or
2868 deferred sales charge, or any other fee that limits or restricts
2869 the ability of members ~~participants~~ to select any investment
2870 product available in the investment plan ~~optional program~~. This
2871 prohibition does not apply to fees or charges that are imposed
2872 on withdrawals from products that give members ~~participants~~ the
2873 option of committing ~~their~~ contributions for an extended time
2874 period in an effort to obtain returns higher than those that
2875 could be obtained from investment products offering full
2876 liquidity, provided that the product ~~in question~~, net of all
2877 fees and charges, produces material benefits relative to other
2878 comparable products in the plan ~~program~~ offering full liquidity.

2879 4. Fees or charges for insurance features, such as
2880 mortality and expense-risk charges, must be reasonable relative
2881 to the benefits provided.

2882 (c) In evaluating and selecting approved providers and
2883 products, the state board shall establish criteria for



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2884 ~~evaluating under which it shall consider~~ the relative
2885 capabilities and qualifications of each proposed provider
2886 company and product. In developing such criteria, the board
2887 shall consider the following to the extent such factors may be
2888 applied in connection with investment products, services, or
2889 providers:

2890 1. Experience in the United States providing retirement
2891 products and related financial services under investment ~~defined~~
2892 ~~contribution retirement~~ plans.

2893 2. Financial strength and stability as ~~which shall be~~
2894 evidenced by the highest ratings assigned by nationally
2895 recognized rating services when comparing proposed providers
2896 that are so rated.

2897 3. Intrastate and interstate portability of the product
2898 offered, including early withdrawal options.

2899 4. Compliance with the Internal Revenue Code.

2900 5. The cost-effectiveness of the product provided and the
2901 levels of service supporting the product relative to its
2902 benefits and its characteristics, including, ~~without limitation,~~
2903 the level of risk borne by the provider.

2904 6. The provider company's ability and willingness to
2905 coordinate its activities with Florida Retirement System
2906 employers, the department, and the state board, and to supply ~~to~~
2907 the ~~such~~ employers, the department, and the board with the
2908 information and data they require.

2909 7. The methods available to members ~~participants~~ to
2910 interact with the provider company; the means by which members
2911 ~~participants~~ may access account information, direct investment
2912 of contributions, make changes to their accounts, transfer



2913 moneys between available investment vehicles, and transfer
2914 moneys between provider companies; and any fees that apply to
2915 such activities.

2916 8. The provider company's policies with respect to the
2917 transfer of individual account balances, contributions, and
2918 earnings thereon, both internally among investment products
2919 offered by the provider company and externally between approved
2920 providers, as well as any fees, charges, reductions, or
2921 penalties that may be applied.

2922 9. An evaluation of specific investment products, taking
2923 into account each product's experience in meeting its investment
2924 return objectives net of all related fees, expenses, and
2925 charges, including, but not limited to, investment management
2926 fees, loads, distribution and marketing fees, custody fees,
2927 recordkeeping fees, education fees, annuity expenses, and
2928 consulting fees.

2929 10. Organizational factors, including, but not limited to,
2930 financial solvency, organizational depth, and experience in
2931 providing institutional and retail investment services.

2932 (d) ~~By March 1, 2010,~~ The state board shall identify and
2933 offer at least one terror-free investment product that allocates
2934 its funds among securities not subject to divestiture as
2935 provided in s. 215.473 if the investment product is deemed by
2936 the board to be consistent with prudent investor standards. No
2937 person may bring a civil, criminal, or administrative action
2938 against an approved provider; the state board; or any employee,
2939 officer, director, or trustee of such provider based upon the
2940 divestiture of any security or the offering of a terror-free
2941 investment product as specified in this paragraph.



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2942 (e) As a condition of offering an ~~any~~ investment option or
2943 product in the investment plan ~~optional retirement program~~, the
2944 approved provider must agree to make the investment product or
2945 service available under the most beneficial terms offered to any
2946 other customer, subject to approval by the ~~Trustees of the state~~
2947 board ~~of Administration~~.

2948 (f) The state board shall regularly review the performance
2949 of each approved provider and product and related organizational
2950 factors to ensure continued compliance with established
2951 selection criteria and with board policy and procedures.
2952 Providers and products may be terminated subject to contract
2953 provisions. The state board shall adopt procedures to transfer
2954 account balances from terminated products or providers to other
2955 products or providers in the investment plan ~~optional program~~.

2956 (g)1. An approved provider shall comply with all applicable
2957 federal and state securities and insurance laws and regulations
2958 ~~applicable to the provider~~, as well as with the applicable rules
2959 and guidelines of the National Association of Securities Dealers
2960 which govern the ethical marketing of investment products. In
2961 furtherance of this mandate, an approved provider must agree in
2962 its contract with the state board to establish and maintain a
2963 compliance education and monitoring system to supervise the
2964 activities of all personnel who directly communicate with
2965 individual members ~~participants~~ and recommend investment
2966 products, which system is consistent with rules of the National
2967 Association of Securities Dealers.

2968 2. Approved provider personnel who directly communicate
2969 with individual members ~~participants~~ and who recommend
2970 investment products shall make an independent and unbiased



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2971 determination as to whether an investment product is suitable
2972 for a particular member participant.

2973 3. The state board shall develop procedures to receive and
2974 resolve member participant complaints against a provider or
2975 approved provider personnel, and, if when appropriate, refer
2976 such complaints to the appropriate agency.

2977 4. Approved providers may not sell or in any way distribute
2978 any customer list or member participant identification
2979 information generated through their offering of products or
2980 services through the investment plan optional retirement
2981 program.

2982 (10) EDUCATION COMPONENT.—

2983 (a) The state board, in coordination with the department,
2984 shall provide ~~for~~ an education component for eligible employees
2985 ~~system members~~ in a manner consistent with ~~the provisions of~~
2986 this section. The education component must be available to
2987 eligible employees at least 90 days before ~~prior to~~ the
2988 beginning date of the election period for the employees of the
2989 respective types of employers.

2990 (b) The education component must provide eligible employees
2991 ~~system members~~ with impartial and balanced information about
2992 plan choices. The education component must involve multimedia
2993 formats. Plan Program comparisons must, to the greatest extent
2994 possible, be based upon the retirement income that different
2995 retirement programs may provide to the member participant. The
2996 state board shall monitor the performance of the contract for
2997 the education component to ensure that the program is conducted
2998 in accordance with the contract, applicable law, and the rules
2999 of the board.



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3000 (c) The state board, in coordination with the department,
3001 shall provide for an initial and ongoing transfer education
3002 component to provide system members with information necessary
3003 to make informed plan choice decisions. The transfer education
3004 component must include, but is not limited to, information on:
3005 1. The amount of money available to a member to transfer to
3006 the investment plan ~~defined contribution program~~.
3007 2. The features of and differences between the pension plan
3008 ~~defined benefit program~~ and the investment plan ~~defined~~
3009 ~~contribution program~~, both generally and specifically, as those
3010 differences may affect the member.
3011 3. The expected benefit available if the member were to
3012 retire under each of the retirement programs, based on
3013 appropriate alternative sets of assumptions.
3014 4. The rate of return from investments in the investment
3015 plan ~~defined contribution program~~ and the period of time over
3016 which such rate of return must be achieved to equal or exceed
3017 the expected monthly benefit payable to the member under the
3018 pension plan ~~defined benefit program~~.
3019 5. The historical rates of return for the investment
3020 alternatives available in the investment plan ~~defined~~
3021 ~~contribution programs~~.
3022 6. The benefits and historical rates of return on
3023 investments available in a typical deferred compensation plan or
3024 a typical plan under s. 403(b) of the Internal Revenue Code for
3025 which the employee may be eligible.
3026 7. The program choices available to employees of the State
3027 University System and the comparative benefits of each available
3028 program, if applicable.



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3029 8. Payout options available in each of the retirement
3030 programs.

3031 (d) An ongoing education and communication component must
3032 provide eligible employees ~~system members~~ with information
3033 necessary to make informed decisions about choices within their
3034 retirement program ~~of membership~~ and in preparation for
3035 retirement. The component must include, but is not limited to,
3036 information concerning:

3037 1. Rights and conditions of membership.

3038 2. Benefit features within the program, options, and
3039 effects of certain decisions.

3040 3. Coordination of contributions and benefits with a
3041 deferred compensation plan under s. 457 or a plan under s.
3042 403(b) of the Internal Revenue Code.

3043 4. Significant program changes.

3044 5. Contribution rates and program funding status.

3045 6. Planning for retirement.

3046 (e) Descriptive materials must be prepared under the
3047 assumption that the employee is an unsophisticated investor, and
3048 all materials used in the education component must be approved
3049 by the state board before ~~prior to~~ dissemination.

3050 (f) The state board and the department shall also establish
3051 a communication component to provide program information to
3052 participating employers and the employers' personnel and payroll
3053 officers and to explain their respective responsibilities in
3054 conjunction with the retirement programs.

3055 (g) Funding for education of new employees may reflect
3056 administrative costs to the investment plan ~~optional program~~ and
3057 the pension plan ~~defined benefit program~~.



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3058 (h) Pursuant to paragraph (8)(a), all Florida Retirement
3059 System employers have an obligation to regularly communicate the
3060 existence of the two Florida Retirement System plans and the
3061 plan choice in the natural course of administering their
3062 personnel functions, using the educational materials supplied by
3063 the state board and the department ~~of Management Services~~.

3064 (11) ~~MEMBER PARTICIPANT~~ INFORMATION REQUIREMENTS.—The state
3065 board shall ensure that each member participant is provided a
3066 quarterly statement that accounts for employer and employee ~~the~~
3067 contributions made on behalf of the member ~~such participant~~; the
3068 interest and investment earnings thereon; and any fees,
3069 penalties, or other deductions that apply ~~thereto~~. At a minimum,
3070 such statements must:

3071 (a) Indicate the member's ~~participant's~~ investment options.

3072 (b) State the market value of the account at the close of
3073 the current quarter and previous quarter.

3074 (c) Show account gains and losses ~~for the period~~ and
3075 changes in account accumulation unit values for the quarter
3076 ~~period~~.

3077 (d) Itemize account contributions for the quarter.

3078 (e) Indicate any account changes due to adjustment of
3079 contribution levels, reallocation of contributions, balance
3080 transfers, or withdrawals.

3081 (f) Set forth any fees, charges, penalties, and deductions
3082 that apply to the account.

3083 (g) Indicate the amount of the account in which the member
3084 ~~participant~~ is fully vested and the amount of the account in
3085 which the member ~~participant~~ is not vested.

3086 (h) Indicate each investment product's performance relative



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3087 to an appropriate market benchmark.

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3089 The third-party administrator shall provide quarterly and annual
3090 summary reports to the state board and any other reports
3091 requested by the department or the board. In any solicitation or
3092 offer of coverage under the investment plan ~~an optional~~
3093 ~~retirement program~~, a provider company shall be governed by the
3094 contract readability provisions of s. 627.4145, notwithstanding
3095 s. 627.4145(6)(c). In addition, all descriptive materials must
3096 be prepared under the assumption that the member participant is
3097 an unsophisticated investor. Provider companies must maintain an
3098 internal system of quality assurance, have proven functional
3099 systems that are date-calculation compliant, and be subject to a
3100 due-diligence inquiry that proves their capacity and fitness to
3101 undertake service responsibilities.

3102 (12) ADVISORY COUNCIL TO PROVIDE ADVICE AND ASSISTANCE.—The
3103 Investment Advisory Council, created pursuant to s. 215.444,
3104 shall assist the state board in implementing and administering
3105 the investment plan ~~Public Employee Optional Retirement Program~~.
3106 The ~~Investment Advisory council, created pursuant to s. 215.444~~,
3107 shall review the state board's initial recommendations regarding
3108 the criteria to be used in selecting and evaluating approved
3109 providers and investment products. The council may provide
3110 comments on the recommendations to the board within 45 days
3111 after receiving the initial recommendations. The state board
3112 shall make the final determination as to whether any investment
3113 provider or product, any contractor, or any and all contract
3114 provisions are ~~shall be~~ approved for the investment plan
3115 ~~program~~.



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3116 (13) FEDERAL REQUIREMENTS.-

3117 (a) ~~Provisions of~~ This section shall be construed, and the
3118 investment plan ~~Public Employee Optional Retirement Program~~
3119 shall be administered, so as to comply with the Internal Revenue
3120 Code, 26 U.S.C., and specifically with plan qualification
3121 requirements imposed on governmental plans under s. 401(a) of
3122 the Internal Revenue Code. The state board ~~may shall have the~~
3123 ~~power and authority to~~ adopt rules reasonably necessary to
3124 establish or maintain the qualified status of the investment
3125 plan ~~Optional Retirement Program~~ under the Internal Revenue Code
3126 and to implement and administer the plan ~~Optional Retirement~~
3127 ~~Program~~ in compliance with the Internal Revenue Code and this
3128 part; ~~provided however, that~~ the board may ~~shall~~ not have the
3129 ~~authority to~~ adopt any rule which makes a substantive change to
3130 the investment plan ~~Optional Retirement Program~~ as designed by
3131 this part.

3132 (b) Any section or provision of this chapter which is
3133 susceptible to more than one construction shall ~~must~~ be
3134 interpreted in favor of the construction most likely to satisfy
3135 requirements imposed by s. 401(a) of the Internal Revenue Code.

3136 (c) Employer and employee contributions payable under this
3137 section for any limitation year may not exceed the maximum
3138 amount allowable for qualified defined contribution ~~pension~~
3139 plans under applicable provisions of the Internal Revenue Code.
3140 If an employee who is enrolled ~~who has elected to participate~~ in
3141 the investment plan ~~enrolls~~ ~~Public Employee Optional Retirement~~
3142 ~~Program~~ ~~participates~~ in any other plan that is maintained by the
3143 participating employer, benefits that accrue under the
3144 investment plan ~~are~~ ~~Public Employee Optional Retirement Program~~



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3145 ~~shall be~~ considered primary for any aggregate limitation
3146 applicable under s. 415 of the Internal Revenue Code.

3147 (14) INVESTMENT POLICY STATEMENT.—

3148 (a) Investment products and approved providers selected for
3149 the investment plan ~~Public Employee Optional Retirement Program~~
3150 must shall conform with the Florida ~~Public Employee Optional~~
3151 ~~Retirement System Program~~ Investment Plan Policy Statement,
3152 herein referred to as the "statement," as developed and approved
3153 by the ~~Trustees of the~~ state board of Administration. The
3154 statement must include, among other items, the investment
3155 objectives of the investment plan ~~Public Employee Optional~~
3156 ~~Retirement Program~~, manager selection and monitoring guidelines,
3157 and performance measurement criteria. As required from time to
3158 time, the executive director of the state board may present
3159 recommended changes in the statement to the board for approval.

3160 (b) Before ~~Prior to~~ presenting the statement, or any
3161 recommended changes ~~thereto~~, to the state board, the executive
3162 director of the board shall present such statement or changes to
3163 the Investment Advisory Council for review. The council shall
3164 present the results of its review to the board prior to the
3165 board's final approval of the statement or changes in the
3166 statement.

3167 (15) STATEMENT OF FIDUCIARY STANDARDS AND
3168 RESPONSIBILITIES.—

3169 (a) Investment of investment plan ~~optional defined~~
3170 ~~contribution retirement plan~~ assets shall be made for the sole
3171 interest and exclusive purpose of providing benefits to plan
3172 members ~~participants~~ and beneficiaries and defraying reasonable
3173 expenses of administering the plan. The program's assets shall



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3174 ~~are to~~ be invested, on behalf of the members ~~program~~
3175 ~~participants~~, with the care, skill, and diligence that a prudent
3176 person acting in a like manner would undertake. The performance
3177 of the investment duties set forth in this paragraph shall
3178 comply with the fiduciary standards set forth in the Employee
3179 Retirement Income Security Act of 1974 at 29 U.S.C. s.
3180 1104(a)(1)(A)-(C). In case of conflict with other provisions of
3181 law authorizing investments, the investment and fiduciary
3182 standards set forth in this subsection shall prevail.

3183 (b) If a member ~~participant~~ or beneficiary of the
3184 investment plan ~~Public Employee Optional Retirement program~~
3185 exercises control over the assets in his or her account, as
3186 determined by reference to regulations of the United States
3187 Department of Labor under s. 404(c) of the Employee Retirement
3188 Income Security Act of 1974 and all applicable laws governing
3189 the operation of the program, a ~~no~~ program fiduciary is not
3190 ~~shall be~~ liable for any loss to a member's ~~participant's~~ or
3191 beneficiary's account which results from the member's ~~such~~
3192 ~~participant's~~ or beneficiary's exercise of control.

3193 (c) Subparagraph (8)(b)2. ~~(8)(b)4.~~ and paragraph ~~(15)(b)~~
3194 incorporate the federal law concept of member ~~participant~~
3195 control, established by regulations of the United States
3196 Department of Labor under s. 404(c) of the Employee Retirement
3197 Income Security Act of 1974 (ERISA). The purpose of this
3198 paragraph is to assist employers and the state board ~~of~~
3199 ~~Administration~~ in maintaining compliance with s. 404(c), while
3200 avoiding unnecessary costs and eroding member ~~participant~~
3201 benefits under the investment plan ~~Public Employee Optional~~
3202 ~~Retirement program~~. Pursuant to 29 C.F.R. s. 2550.404c-



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3203 1(b)(2)(i)(B)(1)(viii), the state board of ~~Administration~~ or its
3204 designated agents shall deliver to members ~~participants~~ of the
3205 investment plan ~~Public Employee Optional Retirement program~~ a
3206 copy of the prospectus most recently provided to the plan, and,
3207 pursuant to 29 C.F.R. s. 2550.404c-1(b)(2)(i)(B)(2)(ii), shall
3208 provide such members ~~participants~~ an opportunity to obtain this
3209 information, except that:

3210 1. The requirement to deliver a prospectus shall be ~~deemed~~
3211 ~~to be~~ satisfied by delivery of a fund profile or summary profile
3212 that contains the information that would be included in a
3213 summary prospectus as described by Rule 498 under the Securities
3214 Act of 1933, 17 C.F.R. s. 230.498. If ~~When~~ the transaction fees,
3215 expense information, or other information provided by a mutual
3216 fund in the prospectus does not reflect terms negotiated by the
3217 state board of ~~Administration~~ or its designated agents, the
3218 ~~mentioned~~ requirement is ~~deemed to be~~ satisfied by delivery
3219 of a separate document described by Rule 498 substituting
3220 accurate information; and

3221 2. Delivery shall be ~~deemed to have been~~ effected if
3222 delivery is through electronic means and the following standards
3223 are satisfied:

3224 a. Electronically-delivered documents are prepared and
3225 provided consistent with style, format, and content requirements
3226 applicable to printed documents;

3227 b. Each member ~~participant~~ is provided timely and adequate
3228 notice of the documents that are to be delivered and their
3229 significance thereof, and of the member's ~~participant's~~ right to
3230 obtain a paper copy of such documents free of charge;

3231 c. ~~(I)~~ Members ~~Participants~~ have adequate access to the



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3232 electronic documents, at locations such as their worksites or
3233 public facilities, and have the ability to convert the documents
3234 to paper free of charge by the state board of ~~Administration~~,
3235 and the board or its designated agents take appropriate and
3236 reasonable measures to ensure that the system for furnishing
3237 electronic documents results in actual receipt. ~~or~~

3238 ~~(II) Members~~ Participants have provided consent to receive
3239 information in electronic format, which consent may be revoked;
3240 and

3241 d. The state board of ~~Administration~~, or its designated
3242 agent, actually provides paper copies of the documents free of
3243 charge, upon request.

3244 (16) DISABILITY BENEFITS.—For any member ~~participant~~ of the
3245 investment plan ~~optional retirement program~~ who becomes totally
3246 and permanently disabled, benefits must ~~shall~~ be paid in
3247 accordance with ~~the provisions of~~ s. 121.591.

3248 (17) SOCIAL SECURITY COVERAGE.—Social security coverage
3249 shall be provided for all officers and employees who become
3250 members ~~participants~~ of the investment plan ~~optional program~~.
3251 Any modification of the present agreement with the Social
3252 Security Administration, or referendum required under the Social
3253 Security Act, for the purpose of providing social security
3254 coverage for any member shall be requested by the state agency
3255 in compliance with the applicable provisions of the Social
3256 Security Act governing such coverage. However, retroactive
3257 social security coverage for service before ~~prior to~~ December 1,
3258 1970, with the employer may ~~shall~~ not be provided for any member
3259 who was not covered under the agreement as of November 30, 1970.

3260 (18) RETIREE HEALTH INSURANCE SUBSIDY.—All officers and



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3261 employees who are members ~~participants~~ of the investment plan
3262 are optional program ~~shall be~~ eligible to receive the retiree
3263 health insurance subsidy, subject to ~~the provisions of~~ s.
3264 112.363.

3265 (19) MEMBER PARTICIPANT RECORDS.—Personal identifying
3266 information of a member of participant ~~in the investment plan~~
3267 ~~Public Employee Optional Retirement Program~~ contained in Florida
3268 Retirement System records held by the state board ~~of~~
3269 ~~Administration~~ or the department ~~of Management Services~~ is
3270 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
3271 Constitution.

3272 (20) DESIGNATION OF BENEFICIARIES.—

3273 (a) Each member participant may, on a form provided for
3274 that purpose, signed and filed with the third-party
3275 administrator, designate a choice of one or more persons, named
3276 sequentially or jointly, as his or her beneficiary for receiving
3277 ~~who shall receive~~ the benefits, if any, which may be payable
3278 pursuant to this chapter in the event of the member's
3279 ~~participant's~~ death. If no beneficiary is named in this manner,
3280 or if no beneficiary designated by the member participant
3281 survives the member participant, the beneficiary shall be the
3282 spouse of the deceased, if living. If the member's participant's
3283 spouse is not alive at the time of the beneficiary's ~~his or her~~
3284 death, the beneficiary shall be the member's living children ~~of~~
3285 ~~the participant~~. If no children survive, the beneficiary shall
3286 be the member's participant's father or mother, if living;
3287 otherwise, the beneficiary shall be the member's participant's
3288 estate. The beneficiary most recently designated by a member
3289 ~~participant on a form or letter filed with the third-party~~



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3290 ~~administrator~~ shall be the beneficiary entitled to any benefits
3291 payable at the time of the member's participant's death. However
3292 ~~Notwithstanding any other provision in this subsection to the~~
3293 ~~contrary, if a member for a participant who dies before prior to~~
3294 his or her effective date of retirement, the spouse at the time
3295 of death shall be the member's participant's beneficiary unless
3296 the member such participant designates a different beneficiary
3297 ~~as provided in this subsection~~ subsequent to the member's
3298 ~~participant's~~ most recent marriage.

3299 (b) If a member participant designates a primary
3300 beneficiary other than the member's participant's spouse, the
3301 member's participant's spouse must sign the beneficiary
3302 designation form to acknowledge the designation. This
3303 requirement does not apply to the designation of one or more
3304 contingent beneficiaries to receive benefits remaining upon the
3305 death of the primary beneficiary or beneficiaries.

3306 (c) Notwithstanding the member's participant's designation
3307 of benefits to be paid through a trust to a beneficiary that is
3308 a natural person, ~~and notwithstanding~~ the provisions of the
3309 trust, benefits must shall be paid directly to the beneficiary
3310 if the person is no longer a minor or an incapacitated person as
3311 defined in s. 744.102.

3312 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT OPTION
3313 PROGRAM PARTICIPANTS.—Notwithstanding any other provision of law
3314 ~~to the contrary~~, participants in the Deferred Retirement Option
3315 Program offered under part I may, after conclusion of their
3316 participation in the program, elect to roll over or authorize a
3317 direct trustee-to-trustee transfer to an account under the
3318 investment plan Public Employee Optional Retirement Program of



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3319 their Deferred Retirement Option Program proceeds distributed as
3320 provided under s. 121.091(13)(c)5. The transaction must
3321 constitute an "eligible rollover distribution" within the
3322 meaning of s. 402(c)(4) of the Internal Revenue Code.

3323 (a) The investment plan ~~Public Employee Optional Retirement~~
3324 ~~Program~~ may accept such amounts for deposit into member
3325 ~~participant~~ accounts as provided in paragraph (5)(e) ~~(5)(e)~~.

3326 (b) The affected participant shall direct the investment of
3327 his or her investment account; however, unless he or she becomes
3328 a renewed member of the Florida Retirement System under s.
3329 121.122 and elects to enroll ~~participate~~ in the investment plan
3330 ~~Public Employee Optional Retirement program~~, employer and
3331 employee contributions may not be made to the participant's
3332 account as provided under paragraph (5)(a).

3333 (c) The state board or the department is not responsible
3334 for locating those persons who may be eligible to enroll
3335 ~~participate~~ in the investment plan ~~Public Employee Optional~~
3336 ~~Retirement Program~~ under this subsection.

3337 (22) CREDIT FOR MILITARY SERVICE.—Creditable service of any
3338 member of the investment program includes ~~Public Employee~~
3339 ~~Optional Retirement Program~~ shall include military service in
3340 the Armed Forces of the United States as provided in ~~the~~
3341 ~~conditions outlined in~~ s. 121.111(1).

3342 Section 22. Section 121.4502, Florida Statutes, is amended
3343 to read:

3344 121.4502 Florida ~~Public Employee Optional Retirement System~~
3345 Investment Plan ~~Program~~ Trust Fund.—

3346 (1) The Florida ~~Public Employee Optional Retirement System~~
3347 Investment Plan ~~Program~~ Trust Fund is created to hold the assets



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3348 of the Florida Public Employee Optional Retirement System
3349 Investment Plan Program in trust for the exclusive benefit of
3350 plan members ~~such program's participants~~ and beneficiaries, and
3351 for the payment of reasonable administrative expenses of the
3352 plan program, in accordance with s. 401 of the Internal Revenue
3353 Code, and shall be administered by the State Board of
3354 Administration as trustee. Funds shall be credited to the trust
3355 fund as provided in this part ~~and, to be~~ used for the purposes
3356 of this part. The trust fund is exempt from the service charges
3357 imposed by s. 215.20.

3358 (2) The Florida Public Employee Optional Retirement System
3359 Investment Plan Program Trust Fund is a ~~retirement~~ trust fund of
3360 the Florida Retirement System that accounts for retirement plan
3361 assets held by the state in a trustee capacity as a fiduciary
3362 for individual members ~~participants~~ in the Florida Public
3363 ~~Employee Optional Retirement System Investment Plan Program~~ and,
3364 pursuant to s. 19(f), Art. III of the State Constitution, is not
3365 subject to termination.

3366 Section 23. Subsections (1) and (3) of section 121.4503,
3367 Florida Statutes, are amended to read:

3368 121.4503 Florida Retirement System Contributions Clearing
3369 Trust Fund.—

3370 (1) The Florida Retirement System Contributions Clearing
3371 Trust Fund is created as a clearing fund for disbursing employer
3372 and employee contributions to the component plans of the Florida
3373 Retirement System and shall be administered by the department ~~of~~
3374 ~~Management Services~~. Funds shall be credited to the trust fund
3375 as provided in this chapter and ~~shall be~~ held in trust for the
3376 contributing employers and employees until ~~such time as~~ the



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3377 assets are transferred by the department to the Florida
3378 Retirement System Trust Fund, the Florida Public Employee
3379 ~~Optional Retirement System Investment Plan Program~~ Trust Fund,
3380 or other trust funds as authorized by law, to be used for the
3381 purposes of this chapter. The trust fund is exempt from the
3382 service charges imposed by s. 215.20.

3383 (3) The department of ~~Management Services~~ may adopt rules
3384 governing the receipt and disbursement of amounts received by
3385 the Florida Retirement System Contributions Clearing Trust Fund
3386 from employers and employees contributing to the component plans
3387 of the Florida Retirement System.

3388 Section 24. Section 121.571, Florida Statutes, is amended
3389 to read:

3390 121.571 Contributions.—Contributions to the Florida Public
3391 ~~Employee Optional Retirement System Investment Plan Program~~
3392 shall be made as follows:

3393 (1) CONTRIBUTORY NONCONTRIBUTORY PLAN.—Each employer and
3394 employee shall submit ~~accomplish the~~ contributions as required
3395 under by s. 121.71 ~~by a procedure in which no employee's gross~~
3396 ~~salary shall be reduced.~~

3397 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund the
3398 retirement and disability benefits provided under this part must
3399 ~~shall~~ be based on the uniform contribution rates established by
3400 s. 121.71 and on the membership class or subclass of the
3401 employee participant. Such contributions must ~~shall~~ be allocated
3402 as provided in ss. 121.72 and 121.73.

3403 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR
3404 RETIREE HEALTH INSURANCE SUBSIDY.—Contributions required under
3405 s. 121.71 ~~are this section shall be~~ in addition to employer and



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3406 member contributions ~~required~~ for social security and the
3407 Retiree Health Insurance Subsidy Trust Fund as required under
3408 ~~provided in~~ ss. 112.363, 121.052, 121.055, and 121.071, as
3409 appropriate.

3410 Section 25. Section 121.591, Florida Statutes, is amended
3411 to read:

3412 121.591 Payment of benefits payable under the Public
3413 ~~Employee Optional Retirement Program of the Florida Retirement~~
3414 ~~System.~~—Benefits may not be paid under the Florida Retirement
3415 System Investment Plan ~~this section~~ unless the member has
3416 terminated employment as provided in s. 121.021(39)(a) or is
3417 deceased and a proper application has been filed as ~~in the~~
3418 ~~manner~~ prescribed by the state board or the department. The
3419 state board or department, as appropriate, may cancel an
3420 application for retirement benefits if ~~when~~ the member or
3421 beneficiary fails to timely provide the information and
3422 documents required by this chapter and the rules of the state
3423 board and department. In accordance with their respective
3424 responsibilities ~~as provided herein~~, the state board ~~of~~
3425 ~~Administration~~ and the department ~~of Management Services~~ shall
3426 adopt rules establishing procedures for application for
3427 retirement benefits and for the cancellation of such application
3428 if ~~when~~ the required information or documents are not received.
3429 The state board ~~of Administration~~ and the department ~~of~~
3430 ~~Management Services~~, as appropriate, are authorized to cash out
3431 a de minimis account of not more than \$5,000 of a member
3432 ~~participant~~ who has been terminated from Florida Retirement
3433 System covered employment for a minimum of 6 calendar months. ~~A~~
3434 ~~de minimis account is an account containing employer~~



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3435 ~~contributions and accumulated earnings of not more than \$5,000~~
3436 ~~made under the provisions of this chapter.~~ Such cash-out must
3437 ~~either~~ be a complete lump-sum liquidation of the account
3438 balance, subject to the provisions of the Internal Revenue Code,
3439 or a lump-sum direct rollover distribution paid directly to the
3440 custodian of an eligible retirement plan, as defined by the
3441 Internal Revenue Code, on behalf of the member participant. Any
3442 nonvested accumulations, including amounts transferred to the
3443 suspense account of the Florida Retirement System Investment
3444 Plan Trust Fund, are forfeited upon payment of any vested
3445 benefit to a member or beneficiary, except for de minimis
3446 distributions or minimum required distributions as provided
3447 under this section. If any financial instrument issued for the
3448 payment of retirement benefits under this section is not
3449 presented for payment within 180 days after the last day of the
3450 month in which it was originally issued, the third-party
3451 administrator or other duly authorized agent of the state board
3452 ~~of Administration~~ shall cancel the instrument and credit the
3453 amount of the instrument to the suspense account of the Florida
3454 ~~Public Employee Optional Retirement~~ System Investment Plan
3455 ~~Program~~ Trust Fund authorized under s. 121.4501(6). Any ~~such~~
3456 amounts transferred to the suspense account are payable upon a
3457 proper application, not to include earnings thereon, as provided
3458 in this section, within 10 years after the last day of the month
3459 in which the instrument was originally issued, after which time
3460 such amounts and any earnings attributable to employer
3461 contributions are ~~thereon shall be~~ forfeited. Any ~~such~~ forfeited
3462 amounts are assets of the ~~Public Employee Optional Retirement~~
3463 ~~Program~~ trust fund and are not subject to the provisions of



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3464 chapter 717.

3465 (1) NORMAL BENEFITS.—Under the Florida Public Employee
3466 ~~Optional Retirement System Investment Plan Program~~:

3467 (a) Benefits in the form of vested accumulations as
3468 described in s. 121.4501(6) are payable under this subsection in
3469 accordance with the following terms and conditions:

3470 1. ~~To the extent vested,~~ Benefits are payable only to a
3471 member, alternate payee or a qualified domestic relations order,
3472 or a beneficiary participant.

3473 2. Benefits shall be paid by the third-party administrator
3474 or designated approved providers in accordance with the law, the
3475 contracts, and any applicable board rule or policy.

3476 3. ~~To receive benefits,~~ The member participant must be
3477 terminated from all employment with all Florida Retirement
3478 System employers, as provided in s. 121.021(39).

3479 4. Benefit payments may not be made until the member
3480 ~~participant~~ has been terminated for 3 calendar months, except
3481 that the state board may authorize by rule for the distribution
3482 of up to 10 percent of the member's participant's account after
3483 being terminated for 1 calendar month if the member participant
3484 has reached the normal retirement date as defined in s. 121.021
3485 ~~of the defined benefit plan.~~

3486 5. If a member or former member of the Florida Retirement
3487 System receives an invalid distribution ~~from the Public Employee~~
3488 ~~Optional Retirement Program Trust Fund~~, such person must repay
3489 the full amount ~~invalid distribution to the trust fund~~ within 90
3490 days after receipt of final notification by the state board or
3491 the third-party administrator that the distribution was invalid,
3492 or, in lieu of repayment, must terminate employment from all



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3493 participating employers. If such person fails to repay the full
3494 invalid distribution within 90 days after receipt of final
3495 notification, the person may be deemed retired from the
3496 investment plan ~~optional retirement program~~ by the state board,
3497 ~~as provided pursuant to s. 121.4501(2)(k)~~, and is subject to s.
3498 121.122. If such person is deemed retired ~~by the state board~~,
3499 any joint and several liability set out in s. 121.091(9)(d)2. is
3500 ~~becomes~~ null and void, and the state board, the department, or
3501 the employing agency is not liable for gains on payroll
3502 contributions that have not been deposited to the person's
3503 account in the investment plan ~~retirement program~~, pending
3504 resolution of the invalid distribution. The member or former
3505 member who has been deemed retired or who has been determined by
3506 the state board to have taken an invalid distribution may appeal
3507 the agency decision through the complaint process as provided
3508 under s. 121.4501(9)(g)3. As used in this subparagraph, the term
3509 "invalid distribution" means any distribution from an account in
3510 the investment plan ~~optional retirement program~~ which is taken
3511 in violation of this section, s. 121.091(9), or s. 121.4501.

3512 (b) If a member ~~participant~~ elects to receive his or her
3513 benefits upon termination of employment as defined in s.
3514 121.021, the member ~~participant~~ must submit a written
3515 application or an application by electronic means to the third-
3516 party administrator indicating his or her preferred distribution
3517 date and selecting an authorized method of distribution as
3518 provided in paragraph (c). The member ~~participant~~ may defer
3519 receipt of benefits until he or she chooses to make such
3520 application, subject to federal requirements.

3521 (c) Upon receipt by the third-party administrator of a



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3522 properly executed application for distribution of benefits, the
3523 total accumulated benefit is shall be payable to the member
3524 participant, as:

3525 1. A lump-sum or partial distribution to the member
3526 participant;

3527 2. A lump-sum direct rollover distribution whereby all
3528 accrued benefits, plus interest and investment earnings, are
3529 paid from the member's participant's account directly to the
3530 custodian of an eligible retirement plan, as defined in s.
3531 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
3532 participant; or

3533 3. Periodic distributions, as authorized by the state
3534 board.

3535 (d) The distribution payment method selected by the plan
3536 member or beneficiary, and the retirement of the member or
3537 beneficiary, is final and irrevocable at the time a benefit
3538 distribution payment is cashed, deposited, or transferred to
3539 another financial institution. Any additional service that
3540 remains unclaimed at retirement may not be claimed or purchased,
3541 and the type of retirement may not be changed, except that if a
3542 member recovers from a disability, the member may subsequently
3543 request normal service benefits under subsection (2).

3544 (e) A member may not receive a distribution of employee
3545 contributions if a pending or approved qualified domestic
3546 relations order is filed against the member's investment plan
3547 account.

3548 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided under
3549 this subsection are payable in lieu of the benefits that which
3550 would otherwise be payable under the provisions of subsection



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3551 (1). Such benefits must ~~shall~~ be funded ~~entirely~~ from employer
3552 contributions ~~made under s. 121.571~~, transferred employee
3553 contributions and participant funds accumulated pursuant to
3554 paragraph (a), and interest and earnings thereon. ~~Pursuant~~
3555 ~~thereto:~~

3556 (a) *Transfer of funds.*—To qualify for ~~to receive~~ monthly
3557 disability benefits under this subsection:

3558 1. All moneys accumulated in the member's ~~participant's~~
3559 ~~Public Employee Optional Retirement Program~~ accounts, including
3560 vested and nonvested accumulations as described in s.
3561 121.4501(6), must ~~shall~~ be transferred from such individual
3562 accounts to the division ~~of Retirement~~ for deposit in the
3563 disability account of the Florida Retirement System Trust Fund.
3564 Such moneys must ~~shall~~ be ~~separately~~ accounted for separately.
3565 Earnings must ~~shall~~ be credited on an annual basis for amounts
3566 held in the disability accounts ~~of the Florida Retirement System~~
3567 ~~Trust Fund~~ based on actual earnings of the ~~Florida Retirement~~
3568 ~~System~~ trust fund.

3569 2. If the member ~~participant~~ has retained retirement credit
3570 ~~he or she had~~ earned under the pension plan ~~defined benefit~~
3571 ~~program of the Florida Retirement System~~ as provided in s.
3572 121.4501(3) ~~s. 121.4501(3)(b)~~, a sum representing the actuarial
3573 present value of such credit within the Florida Retirement
3574 System Trust Fund shall be reassigned by the division ~~of~~
3575 ~~Retirement~~ from the pension plan ~~defined benefit program~~ to the
3576 disability program as implemented under this subsection and
3577 shall be deposited in the disability account of the ~~Florida~~
3578 ~~Retirement System~~ trust fund. Such moneys must ~~shall~~ be
3579 ~~separately~~ accounted for separately.



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3580 (b) *Disability retirement; entitlement.*—

3581 1. A member participant of the investment plan ~~Public~~
3582 ~~Employee Optional Retirement program~~ who becomes totally and
3583 permanently disabled, as defined in paragraph (d) ~~s.~~
3584 ~~121.091(4)(b)~~, after completing 8 years of creditable service,
3585 or a member participant who becomes totally and permanently
3586 disabled in the line of duty regardless of ~~his or her~~ length of
3587 service, ~~is shall be~~ entitled to a monthly disability benefit ~~as~~
3588 ~~provided herein.~~

3589 2. In order for service to apply toward the 8 years of
3590 creditable service required ~~to vest~~ for regular disability
3591 benefits, or toward the creditable service used in calculating a
3592 service-based benefit as provided ~~for~~ under paragraph (g), the
3593 service must be creditable service as described below:

3594 a. The member's participant's period of service under the
3595 investment plan shall ~~Public Employee Optional Retirement~~
3596 ~~program will~~ be considered creditable service, except as
3597 provided in subparagraph d.

3598 b. If the member participant has elected to retain credit
3599 for ~~his or her~~ service under the pension plan ~~defined benefit~~
3600 ~~program of the Florida Retirement System~~ as provided under s.
3601 121.4501(3) ~~s. 121.4501(3)(b)~~, all such service shall ~~will~~ be
3602 considered creditable service.

3603 c. If the member elects participant ~~has elected~~ to transfer
3604 to his or her member participant accounts a sum representing the
3605 present value of his or her retirement credit under the pension
3606 plan ~~defined benefit program~~ as provided under s. 121.4501(3) ~~s.~~
3607 ~~121.4501(3)(c)~~, the period of service under the pension plan
3608 ~~defined benefit program~~ represented in the present value amounts



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3609 transferred shall ~~will~~ be considered creditable service ~~for~~
3610 ~~purposes of vesting for disability benefits~~, except as provided
3611 in subparagraph d.

3612 d. If a member ~~Whenever a participant~~ has terminated
3613 employment and has taken distribution of his or her funds as
3614 provided in subsection (1), all creditable service represented
3615 by such distributed funds is forfeited for purposes of this
3616 subsection.

3617 (c) *Disability retirement effective date.*—The effective
3618 retirement date for a member ~~participant~~ who applies and is
3619 approved for disability retirement shall be established as
3620 provided under s. 121.091(4) (a)2. and 3.

3621 (d) *Total and permanent disability.*—A member is ~~participant~~
3622 ~~shall be~~ considered totally and permanently disabled if, in the
3623 opinion of the division, he or she is prevented, by reason of a
3624 medically determinable physical or mental impairment, from
3625 rendering useful and efficient service as an officer or
3626 employee.

3627 (e) *Proof of disability.*—~~The division,~~ Before approving
3628 payment of any disability retirement benefit, the division shall
3629 require proof that the member ~~participant~~ is totally and
3630 permanently disabled ~~in the same manner~~ as provided ~~for members~~
3631 ~~of the defined benefit program of the Florida Retirement System~~
3632 under s. 121.091(4) (c).

3633 (f) *Disability retirement benefit.*—Upon the disability
3634 retirement of a member ~~participant~~ under this subsection, the
3635 member ~~participant~~ shall receive a monthly benefit that begins
3636 accruing ~~shall begin to accrue~~ on the first day of the month of
3637 disability retirement, as approved by the division, and is ~~shall~~



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3638 ~~be~~ payable on the last day of that month and each month
3639 thereafter during his or her lifetime and continued disability.
3640 All disability benefits must ~~payable to such member shall be~~
3641 paid out of the disability account of the Florida Retirement
3642 System Trust Fund established under this subsection.

3643 (g) *Computation of disability retirement benefit.*—The
3644 amount of each monthly payment must ~~shall~~ be calculated ~~in the~~
3645 ~~same manner~~ as provided ~~for members of the defined benefit~~
3646 ~~program of the Florida Retirement System~~ under s. 121.091(4)(f).
3647 ~~For such purpose,~~ Creditable service under both the pension plan
3648 ~~defined benefit program~~ and the investment plan ~~Public Employee~~
3649 ~~Optional Retirement Program of the Florida Retirement System~~
3650 shall be applicable as provided under paragraph (b).

3651 (h) *Reapplication.*—A member participant whose initial
3652 application for disability retirement is ~~has been~~ denied may
3653 reapply for disability benefits in the same manner, and under
3654 the same conditions, as provided for members of the pension plan
3655 ~~defined benefit program of the Florida Retirement System~~ under
3656 s. 121.091(4)(g).

3657 (i) *Membership.*—Upon approval of a member's ~~an~~ application
3658 for disability benefits ~~under this subsection,~~ the applicant
3659 shall be transferred to the pension plan ~~defined benefit program~~
3660 ~~of the Florida Retirement System,~~ effective upon his or her
3661 disability retirement effective date.

3662 (j) *Option to cancel.*—A member ~~Any participant~~ whose
3663 application for disability benefits is approved may cancel the
3664 ~~his or her~~ application if ~~for disability benefits,~~ provided that
3665 the cancellation request is received by the division before a
3666 disability retirement warrant has been deposited, cashed, or



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3667 received by direct deposit. Upon ~~such~~ cancellation:

3668 1. The member's participant's transfer to the pension plan
3669 ~~defined benefit program~~ under paragraph (i) shall be nullified;

3670 2. The member participant shall be retroactively reinstated
3671 in the investment plan ~~Public Employee Optional Retirement~~
3672 ~~program~~ without hiatus;

3673 3. All funds transferred to the Florida Retirement System
3674 Trust Fund under paragraph (a) must ~~shall~~ be returned to the
3675 member participant accounts from which the ~~such~~ funds were
3676 drawn; and

3677 4. The member participant may elect to receive the benefit
3678 payable under ~~the provisions of~~ subsection (1) in lieu of
3679 disability benefits ~~as provided under this subsection~~.

3680 (k) *Recovery from disability.*—

3681 1. The division may require periodic reexaminations at the
3682 expense of the disability program account of the Florida
3683 Retirement System Trust Fund. Except as ~~otherwise~~ provided in
3684 subparagraph 2., the requirements, procedures, and restrictions
3685 relating to the conduct and review of such reexaminations,
3686 discontinuation or termination of benefits, reentry into
3687 employment, disability retirement after reentry into covered
3688 employment, and all other matters relating to recovery from
3689 disability are ~~shall be the same as~~ provided ~~are set forth~~ under
3690 s. 121.091(4) (h).

3691 2. Upon recovery from disability, the ~~any~~ recipient of
3692 disability retirement benefits under this subsection shall be
3693 transferred back to the investment plan ~~a compulsory member of~~
3694 ~~the Public Employee Optional Retirement Program of the Florida~~
3695 ~~Retirement System~~. The net difference between the recipient's



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3696 original account balance transferred to the Florida Retirement
3697 System Trust Fund, including earnings, ~~under paragraph (a)~~ and
3698 total disability benefits paid to such recipient, if any, shall
3699 be determined as provided in sub-subparagraph a.

3700 a. An amount equal to the total benefits paid shall be
3701 subtracted from that portion of the transferred account balance
3702 consisting of vested accumulations as described under s.
3703 121.4501(6), if any, and an amount equal to the remainder of
3704 benefit amounts paid, if any, shall ~~then~~ be subtracted from any
3705 remaining ~~portion consisting of~~ nonvested accumulations ~~as~~
3706 ~~described under s. 121.4501(6)~~.

3707 b. Amounts subtracted under sub-subparagraph a. must ~~shall~~
3708 be retained within the disability account of the Florida
3709 Retirement System Trust Fund. Any remaining account balance
3710 shall be transferred to the third-party administrator for
3711 disposition as provided under sub-subparagraph c. or sub-
3712 subparagraph d., as appropriate.

3713 c. If the recipient returns to covered employment,
3714 transferred amounts must ~~shall~~ be deposited in individual
3715 accounts under the investment plan ~~Public Employee Optional~~
3716 ~~Retirement program~~, as directed by the member ~~participant~~.
3717 Vested and nonvested amounts shall be separately accounted for
3718 as provided in s. 121.4501(6).

3719 d. If the recipient fails to return to covered employment
3720 upon recovery from disability:

3721 (I) Any remaining vested amount must ~~shall~~ be deposited in
3722 individual accounts under the investment plan ~~Public Employee~~
3723 ~~Optional Retirement program~~, as directed by the member
3724 ~~participant~~, and is ~~shall~~ be payable as provided in subsection



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3725 (1).

3726 (II) Any remaining nonvested amount must ~~shall~~ be held in a
3727 suspense account and is ~~shall be~~ forfeitable after 5 years as
3728 provided in s. 121.4501(6).

3729 3. If present value was reassigned from the pension plan
3730 ~~defined benefit program~~ to the disability program ~~of the Florida~~
3731 ~~Retirement System~~ as provided under subparagraph (a)2., the full
3732 present value amount must ~~shall~~ be returned to the pension plan
3733 ~~defined benefit account~~ within the Florida Retirement System
3734 Trust Fund and the recipient's ~~affected individual's~~ associated
3735 retirement credit under the pension plan ~~defined benefit~~
3736 ~~program shall~~ be reinstated in full. Any benefit based upon such
3737 credit must ~~shall~~ be calculated as provided in s.
3738 121.091(4)(h)1.

3739 (1) *Nonadmissible causes of disability.*—A member is
3740 ~~participant shall~~ not be entitled to receive a disability
3741 retirement benefit if the disability results from any injury or
3742 disease ~~sustained or inflicted~~ as described in s. 121.091(4)(i).

3743 (m) *Disability retirement of justice or judge by order of*
3744 *Supreme Court.*—

3745 1. If a member ~~participant~~ is a justice of the Supreme
3746 Court, judge of a district court of appeal, circuit judge, or
3747 judge of a county court who has served for 6 years or more as an
3748 elected constitutional judicial officer, including service as a
3749 judicial officer in any court abolished pursuant to Art. V of
3750 the State Constitution, and who is retired for disability ~~by~~
3751 ~~order of the Supreme Court upon recommendation of the Judicial~~
3752 ~~Qualifications Commission pursuant to s. 12, the provisions of~~
3753 Art. V of the State Constitution, the member's ~~participant's~~



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3754 Option 1 monthly disability benefit amount as provided in s.
3755 121.091(6)(a)1. shall be two-thirds of his or her monthly
3756 compensation as of the member's ~~participant's~~ disability
3757 retirement date. The member ~~Such a participant~~ may alternatively
3758 elect to receive an actuarially adjusted disability retirement
3759 benefit under any other option as provided in s. 121.091(6)(a),
3760 or ~~to~~ receive the normal benefit payable under ~~the Public~~
3761 ~~Employee Optional Retirement Program as set forth in~~ subsection
3762 (1).

3763 2. If any justice or judge who is a member ~~participant~~ of
3764 the investment plan ~~Public Employee Optional Retirement program~~
3765 ~~of the Florida Retirement System~~ is retired for disability ~~by~~
3766 ~~order of the Supreme Court upon recommendation of the Judicial~~
3767 ~~Qualifications Commission pursuant to s. 12, the provisions of~~
3768 Art. V of the State Constitution, and elects to receive a
3769 monthly disability benefit under ~~the provisions of~~ this
3770 paragraph:

3771 a. Any present value amount that was transferred to his or
3772 her plan ~~program~~ account and all employer contributions made to
3773 such account on his or her behalf, plus interest and earnings
3774 thereon, must ~~shall~~ be transferred to and deposited in the
3775 disability account of the Florida Retirement System Trust Fund;
3776 and

3777 b. The monthly disability benefits payable under this
3778 paragraph for any affected justice or judge retired from the
3779 Florida Retirement System pursuant to Art. V of the State
3780 Constitution shall be paid from the disability account of the
3781 Florida Retirement System Trust Fund.

3782 (n) *Death of retiree or beneficiary.*—Upon the death of a



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3783 disabled retiree or beneficiary of the retiree ~~thereof~~ who is
3784 receiving monthly disability benefits under this subsection, the
3785 monthly benefits shall be paid through the last day of the month
3786 of death and shall terminate, or be adjusted, if applicable, as
3787 of that date in accordance with the optional form of benefit
3788 selected at the time of retirement. The department ~~of Management~~
3789 ~~Services~~ may adopt rules necessary to administer this paragraph.

3790 (3) DEATH BENEFITS.—Under the Florida ~~Public Employee~~
3791 ~~Optional Retirement System Investment Plan Program~~:

3792 (a) Survivor benefits are ~~shall be~~ payable in accordance
3793 with the following terms and conditions:

3794 1. ~~To the extent vested,~~ Benefits are ~~shall be~~ payable only
3795 to a member's ~~participant's~~ beneficiary or beneficiaries as
3796 designated by the member ~~participant~~ as provided in s.
3797 121.4501(20).

3798 2. Benefits shall be paid by the third-party administrator
3799 or designated approved providers in accordance with the law, the
3800 contracts, and any applicable state board rule or policy.

3801 3. To receive benefits ~~under this subsection,~~ the member
3802 ~~participant~~ must be deceased.

3803 (b) Except as provided in paragraph (d), if the employment
3804 of a member is terminated by reason of his or her ~~In the event~~
3805 ~~of a participant's death:~~

3806 1. Before being vested, the member's accumulated
3807 contributions are payable to his or her designated beneficiary.

3808 2. After being vested, all vested accumulations as
3809 described in s. 121.4501(6), less withholding taxes remitted to
3810 the Internal Revenue Service, shall be distributed, as provided
3811 in paragraph (c) or as described in s. 121.4501(20), as if the



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3812 ~~member participant~~ retired on the date of death. No other death
3813 benefits ~~are shall be~~ available for survivors of members
3814 ~~participants~~ under the investment plan ~~Public Employee Optional~~
3815 ~~Retirement Program~~, except for ~~such~~ benefits, or coverage for
3816 ~~such~~ benefits, as are otherwise provided by law or ~~are~~
3817 separately provided ~~afforded~~ by the employer, at the employer's
3818 discretion.

3819 (c) Upon receipt by the third-party administrator of a
3820 properly executed application for distribution of benefits under
3821 paragraph (b), the total accumulated benefit ~~is shall be~~ payable
3822 by the third-party administrator to the member's participant's
3823 surviving beneficiary or beneficiaries, as:

3824 1. A lump-sum distribution payable to the beneficiary or
3825 beneficiaries, or to the deceased member's participant's estate;

3826 2. An eligible rollover distribution on behalf of the
3827 surviving spouse of a deceased member participant, whereby all
3828 accrued benefits, plus interest and investment earnings, are
3829 paid from the deceased member's participant's account directly
3830 to the custodian of an eligible retirement plan, as described in
3831 s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
3832 surviving spouse; or

3833 3. A partial lump-sum payment whereby a portion of the
3834 accrued benefit is paid to the deceased member's participant's
3835 surviving spouse or other designated beneficiaries, less
3836 withholding taxes remitted to the Internal Revenue Service, and
3837 the remaining amount is transferred directly to the custodian of
3838 an eligible retirement plan, as described in s. 402(c)(8)(B) of
3839 the Internal Revenue Code, on behalf of the surviving spouse.
3840 The proportions must be specified by the member participant or



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3841 the surviving beneficiary.

3842 (d) Notwithstanding paragraphs (b) and (c), if a member is
3843 killed in the line of duty, benefits are payable from employer
3844 contributions made pursuant to s. 121.571, transferred members
3845 funds accumulated pursuant to sub-subparagraph 1.a., and
3846 interest and earnings thereon.

3847 1. Transfer of funds.-

3848 a. All moneys accumulated in the deceased member's
3849 investment plan accounts, including vested and nonvested
3850 accumulations described in s. 121.4501(6), shall be transferred
3851 from such individual accounts to the Division of Retirement for
3852 deposit in the death benefits program of the Florida Retirement
3853 System Trust Fund. Such moneys must be separately accounted for.
3854 Earnings shall be credited on an annual basis for amounts held
3855 in the death benefits accounts of the trust fund based on actual
3856 earnings of the trust fund.

3857 b. If the deceased member retained retirement credit he or
3858 she earned under the pension plan as provided in s.
3859 121.4501(3) (b), a sum representing the actuarial present value
3860 of such credit within the Florida Retirement System Trust Fund
3861 shall be reassigned by the Division of Retirement from the
3862 pension plan to the death benefits program as implemented under
3863 this paragraph and deposited in the death benefits account of
3864 the trust fund. Such moneys shall be separately accounted for.

3865 2. Death benefit entitlement and payments.-

3866 a. The surviving spouse of a member killed in the line of
3867 duty may receive a monthly pension equal to one-half of the
3868 monthly salary being received by the member at the time of death
3869 for the rest of the surviving spouse's lifetime.



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3870 b. If the surviving spouse of a member killed in the line
3871 of duty dies, the monthly payments that would have been payable
3872 to the surviving spouse had such surviving spouse lived shall be
3873 paid for the use and benefit of such member's children under 18
3874 years of age and unmarried until the 18th birthday of the
3875 member's youngest child.

3876 c. If a member killed in the line of duty leaves no
3877 surviving spouse but is survived by children under 18 years of
3878 age, the benefits provided by sub-subparagraph a., normally
3879 payable to a surviving spouse, shall be paid for the use and
3880 benefit of the member's child or children under 18 years of age
3881 and unmarried until the 18th birthday of the member's youngest
3882 child.

3883
3884 This paragraph does not abrogate other applicable provisions of
3885 state or federal law providing for payment of death benefits.

3886 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to
3887 any person under the Florida Public Employee Optional Retirement
3888 System Investment Plan Program, and any contributions
3889 accumulated under such plan program, are not subject to
3890 assignment, execution, attachment, or any legal process, except
3891 for qualified domestic relations orders by a court of competent
3892 jurisdiction, income deduction orders as provided in s. 61.1301,
3893 and federal income tax levies.

3894 Section 26. Section 121.5911, Florida Statutes, is amended
3895 to read:

3896 121.5911 Disability retirement program; qualified status;
3897 rulemaking authority.—It is the intent of the Legislature that
3898 the disability retirement program for members ~~participants~~ of



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3899 the Florida Public Employee Optional Retirement System
3900 Investment Plan Program ~~as created in this act~~ must meet all
3901 applicable requirements of federal law for a qualified plan. The
3902 department ~~of Management Services~~ shall seek a private letter
3903 ruling from the Internal Revenue Service on the disability
3904 retirement program ~~for participants of the Public Employee~~
3905 ~~Optional Retirement Program~~. Consistent with the private letter
3906 ruling, the department ~~of Management Services~~ shall adopt ~~any~~
3907 ~~necessary~~ rules necessary ~~required~~ to maintain the qualified
3908 status of the disability retirement program and the Florida
3909 Retirement System's pension System ~~defined benefit~~ plan.

3910 Section 27. Subsection (1) of section 121.70, Florida
3911 Statutes, is amended to read:

3912 121.70 Legislative purpose and intent.—

3913 (1) This part provides for a uniform system for funding
3914 benefits provided under the Florida Retirement System defined
3915 benefit program established under part I of this chapter,
3916 ~~(referred to in this part as the pension plan, ~~defined benefit~~~~
3917 ~~program)~~ and under the Florida Public Employee Optional
3918 Retirement System Investment Plan Program established under part
3919 II of this chapter, ~~(referred to in this part as the investment~~
3920 ~~plan optional retirement program)~~. The Legislature recognizes
3921 and declares that the Florida Retirement System is a single
3922 retirement system, consisting of two retirement plans and other
3923 nonintegrated programs. Employers participating in the Florida
3924 Retirement System collectively shall be responsible for making
3925 contributions to support the benefits provided ~~afforded~~ under
3926 both programs ~~plans~~. ~~The~~ ~~As provided in this part~~, employers
3927 ~~participating in the Florida Retirement System~~ shall make



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3928 contributions based upon uniform contribution rates determined
3929 as a percentage of the total payroll for each class or subclass
3930 of Florida Retirement System membership, irrespective of which
3931 retirement program the plan individual employee is enrolled in
3932 ~~employees may elect~~. This shall be known as a uniform or blended
3933 contribution rate system.

3934 Section 28. Subsections (1) and (2) of section 121.71,
3935 Florida Statutes, are amended, present subsections (3) and (4)
3936 of that section are renumbered as subsections (4) and (7),
3937 respectively, and new subsections (3), (5), and (6) are added to
3938 that section, to read:

3939 121.71 Uniform rates; process; calculations; levy.—

3940 (1) In conducting the system actuarial study required under
3941 s. 121.031, the actuary shall follow all requirements specified
3942 ~~thereunder~~ to determine, by Florida Retirement System employee
3943 membership class, the dollar contribution amounts necessary for
3944 the next forthcoming fiscal year for the pension plan defined
3945 ~~benefit program~~. In addition, the actuary shall determine, by
3946 Florida Retirement System membership class, based on an estimate
3947 for the forthcoming fiscal year of the gross compensation of
3948 employees participating in the investment plan optional
3949 ~~retirement program~~, the dollar contribution amounts necessary to
3950 make the allocations required under ss. 121.72 and 121.73. For
3951 each employee membership class and subclass, the actuarial study
3952 must shall establish a uniform rate necessary to fund the
3953 benefit obligations under both Florida Retirement System
3954 retirement plans by dividing the sum of total dollars required
3955 by the estimated gross compensation of members in both plans.

3956 (2) Based on the uniform rates set forth in subsections



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3957 ~~subsection~~ (3), (4), and (5), employers and employees shall make
3958 monthly contributions to the Division of Retirement as required
3959 under s. 121.061(1), which shall initially deposit the funds
3960 into the Florida Retirement System Contributions Clearing Trust
3961 Fund. A change in a contribution rate is effective on the first
3962 day of the month for which a full month's ~~employer~~ contribution
3963 may be made on or after the beginning date of the change.
3964 Beginning July 1, 2011, each employee shall contribute the
3965 contributions required in subsection (3) to the plan. The
3966 employer shall deduct the contribution from the employee's
3967 monthly salary and submit it to the division. The contributions
3968 shall be reported as employer-paid employee contributions, and
3969 shall be credited to the account of the employee. The
3970 contributions shall be deducted from the employee's salary
3971 before the computation of applicable federal taxes and treated
3972 as employer contributions under 26 U.S.C. 414(b)(2). Although
3973 designated as employee contributions, the employer specifies
3974 that the contributions are being paid by the employer in lieu of
3975 contributions by the employee. The employee does not have the
3976 option of choosing to receive the contributed amounts directly
3977 instead of having them paid to the plan. Such contributions are
3978 mandatory and each employee is deemed to have consented to the
3979 payroll deductions. Payment of an employee's salary or wages,
3980 less the contribution, is a full and complete discharge and
3981 satisfaction of all claims and demands for the service rendered
3982 by employees during the period covered by the payment, except
3983 for claims to benefits to which they may be entitled under this
3984 chapter.

3985 (3) Required employee retirement contribution rates for



200064

3986 each membership class and subclass of the Florida Retirement
3987 System for both retirement plans are as follows:

3988
3989

<u>Membership Class</u>	<u>Percentage of Gross Compensation,</u> <u>Effective July 1, 2011</u>
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3990

<u>Regular Class</u>	_____ %
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3991

<u>Special Risk Class</u>	_____ %
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3992

<u>Special Risk</u> <u>Administrative</u> <u>Support Class</u>	_____ %
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3993

<u>Elected Officers' Class -</u> <u>Legislators, Governor,</u> <u>Lt. Governor,</u> <u>Cabinet Officers,</u> <u>State Attorneys,</u> <u>Public Defenders</u>	_____ %
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3994

<u>Elected Officers' Class -</u> <u>Justices, Judges</u>	_____ %
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3995

<u>Elected Officers' Class -</u> <u>County Elected Officers</u>	_____ %
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3996

<u>Senior Management Class</u>	_____ %
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DROP _____ %

3997

3998 (4)~~(3)~~ Required employer retirement contribution rates for
 3999 each membership class and subclass of the Florida Retirement
 4000 System for both retirement plans are as follows:

	Percentage of Gross Compensation, Effective July 1, <u>2011</u> 2009	Percentage of Gross Compensation, Effective July 1, <u>2012</u> 2010
Membership Class		
4001		
4002		
4003	<u>9.76%</u> 8.69%	<u>9.54%</u> 9.63%
4004	<u>22.20</u> 19.76%	<u>21.92%</u> 22.11%
4005		
Special Risk Administrative Support Class	<u>11.41%</u> 11.39%	<u>11.02%</u> 12.10%
Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys,	<u>14.48%</u> 13.32%	<u>14.15%</u> 15.20%



4006	Public Defenders		
	Elected Officers'		
	Class-		
	Justices, Judges		
		<u>19.43%</u> 18.40%	<u>19.15%</u> 20.65%
4007	Elected Officers'		
	Class-		
	County Elected		
	Officers		
		<u>16.73%</u> 15.37%	<u>16.39%</u> 17.50%
4008	Senior Management Class		
		<u>11.70%</u> 11.96%	<u>16.39%</u> 13.43%
4009	DROP		
		<u>13.79%</u> 9.80%	<u>14.21%</u> 11.14%

4010

4011 (5) In order to address unfunded actuarial liabilities of

4012 the system, the required employer retirement contribution rates

4013 for each membership class and subclass of the Florida Retirement

4014 System for both retirement plans are as follows:

4015

4016

	<u>Percentage of</u>	<u>Percentage of</u>
	<u>Gross</u>	<u>Gross</u>
	<u>Compensation,</u>	<u>Compensation,</u>
	<u>Effective</u>	<u>Effective</u>
<u>Membership Class</u>	<u>July 1, 2011</u>	<u>July 1, 2012</u>



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4017			
4018			
4019			
4020			
4021			
4022			
4023			
4024			
	<u>Regular Class</u>	<u> %</u>	<u>1.58%</u>
4025			
4026			
	<u>Special Risk Class</u>	<u> %</u>	<u>5.97%</u>
4027			
	<u>Special Risk</u>		
	<u>Administrative</u>		
	<u>Support Class</u>	<u> %</u>	<u>15.97%</u>
4028			
	<u>Elected Officers'</u>		
	<u>Class-</u>		
	<u>Legislators, Governor,</u>		
	<u>Lt. Governor,</u>		
	<u>Cabinet Officers,</u>		
	<u>State Attorneys,</u>		
	<u>Public Defenders</u>	<u> %</u>	<u>17.05%</u>
4029			
	<u>Elected Officers'</u>		
	<u>Class-</u>	<u> %</u>	<u>11.00%</u>



4030	<u>Justices, Judges</u>		
	<u>Elected Officers'</u>		
	<u>Class-</u>		
	<u>County Elected</u>		
	<u>Officers</u>	<u> %</u>	<u>19.75%</u>
4031			
	<u>Senior Management Class</u>	<u> %</u>	<u>9.26%</u>
4032			
	<u>DROP</u>	<u> %</u>	<u>4.97%</u>
4033			

4034 (6) If a member is reported under an incorrect membership
4035 class and the amount of contributions reported and remitted are
4036 less than the amount required, the employer shall owe the
4037 difference plus the delinquent fee of 1 percent for each
4038 calendar month or part thereof that the contributions should
4039 have been paid. This delinquent assessment may not be waived. If
4040 the contributions reported and remitted are more than the amount
4041 required, the employer shall receive a credit to be applied
4042 against future contributions owed.

4043 (7)-(4) The state actuary shall recognize and use an
4044 appropriate level of available excess assets of the Florida
4045 Retirement System Trust Fund to offset the difference between
4046 the normal costs of the Florida Retirement System and the
4047 statutorily prescribed contribution rates.

4048 Section 29. Section 121.72, Florida Statutes, is amended to
4049 read:

4050 121.72 Allocations to investment plan member ~~optional~~
4051 ~~retirement program participant~~ accounts; percentage amounts.-



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4052 (1) The allocations established in subsection (4) shall
4053 fund retirement benefits under the investment plan under part II
4054 of this chapter ~~optional retirement program~~ and shall be
4055 transferred monthly by the Division of Retirement from the
4056 Florida Retirement System Contributions Clearing Trust Fund to
4057 the third-party administrator for deposit in each participating
4058 employee's individual account based on the membership class of
4059 the employee participant.

4060 (2) The allocations are stated as a percentage of each
4061 investment plan member's ~~optional retirement program~~
4062 ~~participant's~~ gross compensation for the calendar month. A
4063 change in a contribution percentage is effective the first day
4064 of the month for which retirement contributions ~~a full month's~~
4065 ~~employer contribution~~ may be made on or after the beginning date
4066 of the change. Contribution percentages may be modified by
4067 general law.

4068 (3) Employer and employee participant contributions to
4069 member's participant accounts shall be accounted for separately.
4070 ~~Participant contributions may be made only if expressly~~
4071 ~~authorized by law.~~ Interest and investment earnings on
4072 contributions shall accrue on a tax-deferred basis until
4073 proceeds are distributed.

4074 (4) Effective July 1, 2011 ~~July 1, 2002~~, allocations from
4075 the Florida Retirement System Contributions Clearing Trust Fund
4076 to investment plan member ~~optional retirement program~~
4077 participant accounts, including employee contributions required
4078 under s. 121.71(3), are ~~shall be~~ as follows:

Membership Class	Percentage of Gross Compensation
------------------	-------------------------------------



200064

4079
4080
4081
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4083
4084
4085
4086
4087
4088
4089
4090
4091
4092

Regular Class	9.00%
Special Risk Class	20.00%
Special Risk Administrative Support Class	11.35%
Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.40%
Elected Officers' Class— Justices, Judges	18.90%
Elected Officers' Class— County Elected Officers	16.20%
Senior Management Service Class	10.95%

Section 30. Section 121.73, Florida Statutes, is amended to read:
121.73 Allocations for member ~~optional retirement program~~
~~participant~~ disability coverage; percentage amounts.—



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4093 (1) The allocations established in subsection (3) shall be
4094 used to provide disability coverage for members of the
4095 investment plan ~~participants in the optional retirement program~~
4096 and shall be transferred monthly by the Division of Retirement
4097 from the Florida Retirement System Contributions Clearing Trust
4098 Fund to the disability account of the Florida Retirement System
4099 Trust Fund.

4100 (2) The allocations are stated as a percentage of each
4101 investment plan participant's ~~optional retirement program~~
4102 ~~participant's~~ gross compensation for the calendar month. A
4103 change in a contribution percentage is effective the first day
4104 of the month for which retirement contributions ~~a full month's~~
4105 ~~employer contribution~~ may be made on or after the beginning date
4106 of the change. Contribution percentages may be modified by
4107 general law.

4108 (3) Effective July 1, 2002, allocations from the Florida
4109 Retirement System ~~FRS~~ Contribution Clearing Fund to provide
4110 disability coverage for members of the investment plan
4111 ~~participants in the optional retirement program~~, and to offset
4112 the costs of administering said coverage, shall be as follows:

Membership Class	Percentage of Gross Compensation
------------------	-------------------------------------

4113

4114

Regular Class	0.25%
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4115

Special Risk Class	1.33%
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4116



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4117	Special Risk Administrative Support Class	0.45%
4118	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
4119	Elected Officers' Class— Justices, Judges	0.73%
4120	Elected Officers' Class— County Elected Officers	0.41%
4121	Senior Management Service Class	0.26%

4122
4123 (4) Effective July 1, 2011, allocations from the Florida
4124 Retirement System Contribution Clearing Fund to provide
4125 disability coverage for members of the investment plan and to
4126 offset the costs of administering such coverage shall be the
4127 actuarially indicated amount necessary to fund the statutorily
4128 authorized benefit for the plan year as determined by the
4129 department's actuary.

4130 Section 31. Section 121.74, Florida Statutes, is amended to
4131 read:

4132 121.74 Administrative and educational expenses.—In addition
4133 to contributions required under ss. ~~s.~~ 121.71 and 121.73,



200064

4134 effective July 1, 2010, through June 30, 2014, employers
4135 participating in the Florida Retirement System shall contribute
4136 an amount equal to 0.03 percent of the payroll reported for each
4137 class or subclass of Florida Retirement System membership;
4138 effective July 1, 2014, the contribution rate shall be 0.04
4139 percent of the payroll reported for each class or subclass of
4140 membership. The amount contributed shall be transferred by the
4141 Division of Retirement from the Florida Retirement System
4142 Contributions Clearing Trust Fund to the state board's ~~Board of~~
4143 ~~Administration's~~ administrative trust fund to offset the costs
4144 of administering the investment plan ~~optional retirement program~~
4145 and the costs of providing educational services to participants
4146 in the pension plan ~~defined benefit program~~ and the investment
4147 plan ~~optional retirement program~~. Approval of the trustees is
4148 required before the expenditure of these funds. Payments for
4149 third-party administrative or educational expenses shall be made
4150 only pursuant to the terms of the approved contracts for such
4151 services.

4152 Section 32. Section 121.75, Florida Statutes, is amended to
4153 read:

4154 121.75 Allocation for pension plan ~~defined benefit~~
4155 ~~program~~.—After making the transfers required pursuant to ss.
4156 121.71, 121.72, 121.73, and 121.74, the monthly balance of funds
4157 in the Florida Retirement System Contributions Clearing Trust
4158 Fund shall be transferred to the Florida Retirement System Trust
4159 Fund to pay the costs of providing pension plan ~~defined benefit~~
4160 ~~program~~ benefits and plan administrative costs under the pension
4161 plan ~~defined benefit program~~.

4162 Section 33. Section 121.77, Florida Statutes, is amended to



200064

4163 read:

4164 121.77 Deductions from member ~~participant~~ accounts.—The
4165 State Board of Administration may authorize the third-party
4166 administrator to deduct reasonable fees and apply appropriate
4167 charges to investment plan member ~~optional retirement program~~
4168 ~~participant~~ accounts. In no event may ~~shall~~ administrative and
4169 educational expenses exceed the portion of employer
4170 contributions earmarked for such expenses under this part,
4171 except for reasonable administrative charges assessed against
4172 member ~~participant~~ accounts of persons for whom no employer
4173 contributions are made during the calendar quarter. Investment
4174 management fees shall be deducted from member ~~participant~~
4175 accounts, pursuant to the terms of the contract between the
4176 provider and the board.

4177 Section 34. Subsections (1) and (3) of section 121.78,
4178 Florida Statutes, are amended to read:

4179 121.78 Payment and distribution of contributions.—

4180 (1) Contributions made pursuant to this part, including the
4181 employee contributions, shall be paid by the employer to the
4182 Division of Retirement by electronic funds transfer no later
4183 than the 5th working day of the month immediately following the
4184 month during which the payroll period ended. Accompanying
4185 payroll data must be transmitted to the division concurrent with
4186 the contributions.

4187 (3) (a) Employer and employee contributions and accompanying
4188 payroll data received after the 5th working day of the month are
4189 considered late. The employer shall be assessed by the Division
4190 of Retirement a penalty of 1 percent of the contributions due
4191 for each calendar month or part thereof that the contributions



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4192 or accompanying payroll data are late. Proceeds from the 1-
4193 percent assessment against contributions made on behalf of
4194 members of the pension plan ~~participants of the defined benefit~~
4195 ~~program~~ shall be deposited in the Florida Retirement System
4196 Trust Fund, and proceeds from the 1 percent ~~1-percent~~ assessment
4197 against contributions made on behalf of members of the
4198 investment plan ~~participants of the optional retirement program~~
4199 shall be transferred to the third-party administrator for
4200 deposit into member ~~participant~~ accounts, as provided in
4201 paragraph (c) ~~(b)~~.

4202 (b) Retirement contributions paid for a prior period shall
4203 be charged a delinquent fee of 1 percent for each calendar month
4204 or part thereof that the contributions should have been paid.
4205 This includes prior period contributions due to incorrect wages,
4206 contributions from an earlier report or wages, and contributions
4207 that should have been reported but were not. The delinquent
4208 assessments may not be waived.

4209 (c) ~~(b)~~ If employee contributions or contributions made by
4210 an employer on behalf of members of the investment plan
4211 ~~participants of the optional retirement program~~ or accompanying
4212 payroll data are not received within the calendar month they are
4213 due, including, but not limited to, contribution adjustments as
4214 a result of employer errors or corrections, and if that
4215 delinquency results in market losses to members ~~participants~~,
4216 the employer shall reimburse each member's ~~participant's~~ account
4217 for market losses resulting from the late contributions. If a
4218 member ~~participant~~ has terminated employment and taken a
4219 distribution, the member ~~participant~~ is responsible for
4220 returning any excess contributions erroneously provided by



200064

4221 employers, adjusted for any investment gain or loss incurred
4222 during the period such excess contributions were in the member's
4223 ~~participant's~~ account. The state board or its designated agent
4224 shall communicate to terminated members ~~participants~~ any
4225 obligation to repay such excess contribution amounts. However,
4226 the state board, its designated agents, the Florida Public
4227 ~~Employee Optional Retirement System Investment Plan Program~~
4228 Trust Fund, the department, or the Florida Retirement System
4229 Trust Fund may not incur any loss or gain as a result of an
4230 employer's correction of such excess contributions. The third-
4231 party administrator, hired by the state board pursuant to s.
4232 121.4501(8), shall calculate the market losses for each affected
4233 member ~~participant~~. If contributions made on behalf of members
4234 of the investment plan ~~participants of the optional retirement~~
4235 ~~program~~ or accompanying payroll data are not received within the
4236 calendar month due, the employer shall also pay the cost of the
4237 third-party administrator's calculation and reconciliation
4238 adjustments resulting from the late contributions. The third-
4239 party administrator shall notify the employer of the results of
4240 the calculations and the total amount due from the employer for
4241 such losses and the costs of calculation and reconciliation. The
4242 employer shall remit to the Division of Retirement the amount
4243 due within 30 working days after the date of the penalty notice
4244 sent by the division. The division shall transfer that amount to
4245 the third-party administrator, which shall deposit proceeds from
4246 the 1 percent ~~1-percent~~ assessment and from individual market
4247 losses into member ~~participant~~ accounts, as appropriate. The
4248 state board may adopt rules to administer the provisions
4249 regarding late contributions, late submission of payroll data,



200064

4250 the process for reimbursing member participant accounts for
4251 resultant market losses, and the penalties charged to the
4252 employers.

4253 (d) If employee contributions reported by an employer on
4254 behalf of the employee are reduced as a result of employer
4255 errors or corrections and the employee has terminated employment
4256 and taken a refund or distribution, the employer shall be billed
4257 and is responsible for recovering from the employee any excess
4258 contributions erroneously provided by the employer.

4259 (e)-(e) Delinquency fees specified in paragraph (a) may be
4260 waived by the Division of Retirement, with regard to pension
4261 plan defined benefit program contributions, and by the state
4262 board, with regard to investment plan optional retirement
4263 program contributions, only if, in the opinion of the division
4264 or the board, as appropriate, exceptional circumstances beyond
4265 the employer's control prevented remittance by the prescribed
4266 due date notwithstanding the employer's good faith efforts to
4267 effect delivery. Such a waiver of delinquency may be granted an
4268 employer only once each plan state fiscal year.

4269 (f) If the employer submits excess employer or employee
4270 contributions, the employer shall receive a credit to be applied
4271 against future contributions owed. The employer is responsible
4272 for reimbursing the employee for any excess contributions
4273 submitted if any return of such an erroneous excess pretax
4274 contribution by the program is made within 1 year after making
4275 erroneous contributions or such other period as allowed under
4276 applicable Internal Revenue Service guidance.

4277 (g)-(d) If contributions made by an employer on behalf of
4278 members of the investment program participants in the optional



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4279 ~~retirement program~~ are delayed in posting to member participant
4280 accounts due to acts of God beyond the control of the Division
4281 of Retirement, the state board, or the third-party
4282 administrator, as applicable, market losses resulting from the
4283 late contributions are not payable to the members participants.

4284 Section 35. Paragraph (a) of subsection (4) of section
4285 1012.875, Florida Statutes, is amended to read:

4286 1012.875 State Community College System Optional Retirement
4287 Program.—Each community college may implement an optional
4288 retirement program, if such program is established therefor
4289 pursuant to s. 1001.64(20), under which annuity or other
4290 contracts providing retirement and death benefits may be
4291 purchased by, and on behalf of, eligible employees who
4292 participate in the program, in accordance with s. 403(b) of the
4293 Internal Revenue Code. Except as otherwise provided herein, this
4294 retirement program, which shall be known as the State Community
4295 College System Optional Retirement Program, may be implemented
4296 and administered only by an individual community college or by a
4297 consortium of community colleges.

4298 (4) (a) Through June 30, 2011, each college must contribute
4299 on behalf of each program member participant an amount equal to
4300 10.43 percent of the employee's participant's gross monthly
4301 compensation. Effective July 1, 2011, each member shall
4302 contribute an amount equal to the employee contribution required
4303 under s. 121.71(3). Effective July 1, 2011, each employer shall
4304 contribute on behalf of each program member an amount equal to
4305 the difference between 10.43 percent of the employee's gross
4306 monthly compensation and the employee's required contribution
4307 based on the employee's gross monthly compensation. The college



200064

4308 shall deduct an amount approved by the district board of
4309 trustees of the college to provide for the administration of the
4310 optional retirement program. Payment of this contribution must
4311 be made ~~either~~ directly by the college or through the program
4312 administrator to the designated company contracting for payment
4313 of benefits to the program member participant.

4314 Section 36. The Legislature finds that a proper and
4315 legitimate state purpose is served when employees and retirees
4316 of the state and its political subdivisions, and the dependents,
4317 survivors, and beneficiaries of such employees and retirees, are
4318 extended the basic protections afforded by governmental
4319 retirement systems. These persons must be provided benefits that
4320 are fair and adequate and that are managed, administered, and
4321 funded in an actuarially sound manner, as required by s. 14,
4322 Article X of the State Constitution and part VII of chapter 112,
4323 Florida Statutes. Therefore, the Legislature determines and
4324 declares that this act fulfills an important state interest.

4325 Section 37. The Division of Statutory Revision is requested
4326 to rename the title of part II of chapter 121, Florida Statutes,
4327 as "Florida Retirement System Investment Plan."

4328 Section 38. (1) Effective upon this act becoming a law, the
4329 State Board of Administration and the Department of Management
4330 Services shall, as soon as practicable, request a determination
4331 letter and private letter ruling from the United States Internal
4332 Revenue Service. If the Internal Revenue Service refuses to act
4333 upon a request for a private letter ruling, the legal opinion
4334 from a qualified tax attorney or firm may be substituted for the
4335 private letter ruling.

4336 (2) If the board or the department receives notification



200064

4337 from the United States Internal Revenue Service that this act or
4338 any portion of this act will cause the Florida Retirement
4339 System, or a portion thereof, to be disqualified for tax
4340 purposes under the Internal Revenue Code, then that portion does
4341 not apply. Upon such notice, the state board and the department
4342 shall notify the presiding officers of the Legislature.

4343 Section 39. Except as otherwise expressly provided in this
4344 act, this act shall take effect June 30, 2011.

4345
4346 ===== T I T L E A M E N D M E N T =====

4347 And the title is amended as follows:

4348 Delete everything before the enacting clause
4349 and insert:

4350 A bill to be entitled
4351 An act relating to retirement; amending s. 110.123,
4352 F.S.; conforming provisions to changes made by the
4353 act; amending ss. 112.0801, 112.363, and 112.65, F.S.;
4354 conforming provisions to changes made by the act;
4355 amending s. 121.011, F.S.; requiring employee and
4356 employer contributions to the retirement system by a
4357 certain date; amending s. 121.021, F.S.; redefining
4358 the terms "system," "prior service," "compensation,"
4359 "average final compensation," "benefit," and "payee";
4360 amending s. 121.051, F.S.; conforming provisions to
4361 changes made by the act; amending s. 121.0515, F.S.;
4362 providing that special risk employee contributions be
4363 used, if applicable, when purchasing credit for past
4364 service; conforming a cross-reference; amending s.
4365 121.052, F.S., relating to the membership class of



200064

4366 elected officers; conforming provisions to changes
4367 made by the act; providing for a refund of
4368 contributions under certain circumstances for an
4369 officer who leaves office; prohibiting such refund if
4370 an approved qualified domestic relations order is
4371 filed against the member's retirement account;
4372 providing that a member who obtains a refund of
4373 contributions waives certain rights under the Florida
4374 Retirement System; conforming a cross-reference;
4375 amending s. 121.053, F.S.; conforming provisions to
4376 changes made by the act; amending s. 121.055, F.S.,
4377 relating to the Senior Management Service Class;
4378 conforming provisions to changes made by the act;
4379 prohibiting such refund if an approved qualified
4380 domestic relations order is filed against the member's
4381 retirement account; providing that a member who
4382 obtains a refund of contributions waives certain
4383 rights under the Florida Retirement System; requiring
4384 employee and employer contributions for members in the
4385 Senior Management Service Optional Annuity Program
4386 after a certain date; limiting the payment of benefits
4387 before a member's termination of employment; amending
4388 s. 121.071, F.S.; requiring employee and employer
4389 contributions to the retirement system beginning on a
4390 certain date; providing for a refund of contributions
4391 under certain circumstances following termination of
4392 employment; prohibiting such refund if an approved
4393 qualified domestic relations order is filed against
4394 the member's retirement account; providing that a



4395 member who obtains a refund of contributions waives
4396 certain rights under the Florida Retirement System;
4397 requiring repayment plus interest of an invalid
4398 refund; amending s. 121.081, F.S.; providing
4399 requirements for contributions for prior service
4400 performed on or after a certain date; amending s.
4401 121.091, F.S.; conforming a cross-reference; delaying
4402 the refund or payment of accumulated employee
4403 contributions if a member's employment is terminated
4404 for any reason other than death or retirement;
4405 requiring repayment plus interest of an invalid
4406 refund; prohibiting such refund if an approved
4407 qualified domestic relations order is filed against
4408 the member's retirement account; providing that a
4409 member who obtains a refund of contributions waives
4410 certain rights under the Florida Retirement System;
4411 conforming provisions to changes made by the act;
4412 amending s. 121.1001, F.S.; conforming provisions to
4413 changes made by the act; amending s. 121.121, F.S.,
4414 relating to the purchase of creditable service
4415 following an authorized leave of absence; requiring
4416 that service credit be purchased at the employee and
4417 employer contribution rates in effect during the leave
4418 of absence; reducing the interest rate on benefits
4419 payable under the Deferred Retirement Option Program
4420 for employees hired after a certain date; amending s.
4421 121.122, F.S.; providing for renewed membership in the
4422 retirement system for retirees who are reemployed
4423 after a certain date; specifying requirements and



4424 limitations; amending s. 121.125, F.S.; conforming
4425 provisions to changes made by the act; amending s.
4426 121.35, F.S., relating to the optional retirement
4427 program for the State University System; conforming
4428 provisions to changes made by the act; requiring
4429 employee and employer contributions for members
4430 participating in the optional retirement program after
4431 a certain date; deleting certain requirements
4432 governing employer contributions to conform to changes
4433 made by the act; conforming cross-references; amending
4434 s. 121.355, F.S.; conforming provisions to changes
4435 made by the act; amending s. 121.4501, F.S.; changing
4436 the name of the Public Employee Optional Retirement
4437 Program to the Florida Retirement System Investment
4438 Plan; limiting the option of enrolling in the State
4439 Retirement System's defined benefit program or defined
4440 contribution program to public employees employed
4441 before a certain date; requiring public employees
4442 employed on or after a certain date to enroll in the
4443 investment plan; providing exceptions; requiring that
4444 plan members make contributions to the plan based on
4445 the employee's membership class; revising definitions;
4446 deleting obsolete provisions relating to the 2002
4447 optional transfer of public employees from the pension
4448 plan to the investment plan; providing for past
4449 employees who reenter the system; providing for
4450 contribution adjustments as a result of errors or
4451 corrections; requiring an employer to receive a credit
4452 for excess contributions and to reimburse an employee



200064

4453 for excess contributions, subject to certain
4454 limitations; providing for a retiree to retain his or
4455 her prior plan choice following a return to
4456 employment; limiting certain refunds of contributions
4457 which exceed the amount that would have accrued had
4458 the member remained in the pension plan; providing
4459 certain requirements and limitations with respect to
4460 contributions; clarifying that employee and employer
4461 contributions are earmarked for specified purposes;
4462 providing duties of the third-party administrator;
4463 providing that a member is vested immediately with
4464 respect to employee contributions paid by the
4465 employee; providing for the forfeiture of nonvested
4466 employer contributions and service credit based on
4467 years of service; amending s. 121.4502, F.S.;
4468 conforming provisions to changes made by the act;
4469 amending s. 121.4503, F.S.; providing for the deposit
4470 of employee contributions into the Florida Retirement
4471 System Contributions Clearing Trust Fund; amending s.
4472 121.571, F.S.; conforming provisions to changes made
4473 by the act; providing requirements for submitting
4474 employee contributions; amending s. 121.591, F.S.;
4475 providing for the forfeiture of nonvested
4476 accumulations upon payment of certain vested benefits;
4477 providing that the distribution payment method
4478 selected by the member or beneficiary is irrevocable
4479 at the time of distribution; prohibiting a
4480 distribution of employee contributions if a qualified
4481 domestic relations order is filed against the member's



200064

4482 account; providing for the distribution of an
4483 employee's contributions if the employee dies before
4484 being vested; providing for the establishment of a
4485 death benefits program in the Florida Retirement
4486 System Trust Fund and the payment of benefits if the
4487 employee dies in the line of duty; conforming
4488 provisions to changes made by the act; amending ss.
4489 121.5911 and 121.70, F.S.; conforming provisions to
4490 changes made by the act; amending s. 121.71, F.S.;
4491 providing for employee contributions to be deducted
4492 from the employee's monthly salary, beginning on a
4493 specified date, and treated as employer contributions
4494 under certain provisions of federal law; clarifying
4495 that an employee may not receive such contributions
4496 directly; specifying the required employee
4497 contribution rates for the membership of each
4498 membership class and subclass of the Florida
4499 Retirement System; specifying the required employer
4500 retirement contribution rates for each membership
4501 class and subclass of the system in order to address
4502 unfunded actuarial liabilities of the system;
4503 requiring an assessment to be imposed if the employee
4504 contributions remitted are less than the amount
4505 required; providing for the employer to receive a
4506 credit for excess contributions remitted; conforming
4507 cross-references; amending s. 121.72, F.S.; revising
4508 certain requirements governing allocations to optional
4509 retirement program member accounts; conforming cross-
4510 references; amending s. 121.73, F.S., relating to



200064

4511 disability coverage for members of the optional
4512 retirement program; conforming provisions to changes
4513 made by the act; amending ss. 121.74, 121.75, and
4514 121.77, F.S.; conforming provisions to changes made by
4515 the act; conforming cross-references; amending s.
4516 121.78, F.S.; revising certain requirements for
4517 administering the payment and distribution of
4518 contributions; requiring that certain fees be imposed
4519 for delinquent payment; providing that an employer is
4520 responsible for recovering any refund provided to an
4521 employee in error; revising the terms of an authorized
4522 waiver of delinquency; requiring an employer to
4523 receive a credit for excess contributions and to
4524 reimburse an employee for excess contributions,
4525 subject to certain limitations; amending s. 1012.875,
4526 F.S.; requiring employee and employer contributions
4527 for members of the State Community College System
4528 Optional Retirement Program on a certain date;
4529 conforming cross-references; providing that the act
4530 fulfills an important state interest; providing a
4531 directive to the Division of Statutory Revision;
4532 requiring the State Board of Administration and the
4533 Department of Management Services to request a private
4534 letter ruling from the United States Internal Revenue
4535 Service regarding this act; providing for
4536 severability; providing effective dates.



581812

LEGISLATIVE ACTION

Senate

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House

The Committee on Governmental Oversight and Accountability
(Latvala) recommended the following:

**Senate Amendment to Amendment (200064) (with title
amendment)**

Delete line 179

and insert:

121.071 and part III of this chapter. Notwithstanding any other
provision of law, the amount of employee retirement
contributions for any member of the Regular Class or Special
Risk Class may not exceed 2 percent of such member's annual
state compensation and the amount of employee retirement
contributions for any member of the Senior Management Service
Class or Elected Officers Class may not exceed 4 percent of such



581812

13 member's annual state compensation.

14

15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 Delete line 4357

18 and insert:

19 certain date; placing an cap on the amount of employee
20 contributions; amending s. 121.021, F.S.; redefining



204962

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Governmental Oversight and Accountability
(Latvala) recommended the following:

1 **Senate Amendment to Amendment (200064) (with directory and**
2 **title amendments)**

3
4 Between lines 179 and 180
5 insert:

6 (i) Employee contributions to the system may be used only
7 to pay down an unfunded actuarial liability in the specific plan
8 type in the retirement system in which the contributing employee
9 is enrolled.

10
11 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

12 And the directory clause is amended as follows:



204962

13 Delete line 173
14 and insert:
15 Section 5. Paragraphs (h) and (i) are added to subsection
16 (3) of
17
18 ===== T I T L E A M E N D M E N T =====
19 And the title is amended as follows:
20 Delete line 4357
21 and insert:
22 certain date; limiting how employee retirement
23 contributions may be used within the system; amending
24 s. 121.021, F.S.; redefining



641980

LEGISLATIVE ACTION

Senate

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House

The Committee on Governmental Oversight and Accountability
(Latvala) recommended the following:

1 **Senate Amendment to Amendment (200064) (with title**
2 **amendment)**

3
4 Delete lines 306 - 322

5 and insert:

6 (45) ~~(a)~~ "Vested" or "vesting" means the guarantee that a
7 member is eligible to receive a future retirement benefit upon
8 completion of the required years of creditable service for the
9 employee's class of membership, even though the member may have
10 terminated covered employment before reaching normal or early
11 retirement date. Being vested does not entitle a member to a
12 disability benefit. Provisions governing entitlement to



641980

13 disability benefits are set forth under s. 121.091(4).

14 (a) ~~(b)~~ Effective July 1, 2001, a 6-year vesting requirement
15 shall be implemented for the ~~defined benefit program of the~~
16 Florida Retirement System's pension plan System. Pursuant
17 thereto:

18 1. Any member employed in a regularly established position
19 on July 1, 2001, who completes or has completed a total of 6
20 years of creditable service is ~~shall be considered~~ vested as
21 ~~described in paragraph (a)~~.

22 2. Any member not employed in a regularly established
23 position on July 1, 2001, shall be deemed vested upon completion
24 of 6 years of creditable service if, ~~provided that~~ such member
25 is employed in a covered position for at least 1 work year after
26 July 1, 2001. However, a ~~no~~ member may not ~~shall~~ be required to
27 complete more years of creditable service than would have been
28 required for that member to vest under retirement laws in effect
29 before July 1, 2001.

30 (b) Effective July 1, 2011, an 8-year vesting requirement
31 shall be implemented for the Florida Retirement System's pension
32 plan.

33 1. Any member employed in a regularly established position
34 on July 1, 2011, who completes or has completed a total of 8
35 years of creditable service is vested.

36 2. Any member not employed in a regularly established
37 position on July 1, 2011, shall be deemed vested upon completion
38 of 8 years of creditable service if such member is employed in a
39 covered position for at least 1 work year after July 1, 2011.
40 However, a member may not be required to complete more years of
41 creditable service than would have been required for that member



641980

42 to vest under retirement laws in effect before July 1, 2011.

43

44 ===== T I T L E A M E N D M E N T =====

45 And the title is amended as follows:

46 Delete line 4359

47 and insert:

48 "average final compensation," "benefit," "vested," and

49 "payee";



939600

LEGISLATIVE ACTION

Senate

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House

The Committee on Governmental Oversight and Accountability
(Latvala) recommended the following:

**Senate Amendment to Amendment (200064) (with directory and
title amendments)**

Delete lines 607 - 614.

Delete line 1878

and insert:

plan. Enrollment is compulsory for members of the Elected
Officers Class, the Senior Management Class, and any member of
any class for which the starting salary of the position in which
the member is employed is in excess of \$75,000 who are



939600

13 Delete lines 2484 - 2490.

14

15 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

16 And the directory clause is amended as follows:

17 Delete lines 332 - 333

18 and insert:

19 subsections (f) and (g), respectively, and subsection (3) of
20 that section is

21

22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 Delete line 4441

25 and insert:

26 before a certain date; requiring certain public
27 employees



791024

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Fasano) recommended the following:

1 **Senate Amendment to Amendment (200064) (with directory and**
2 **title amendments)**

3
4 Between lines 788 and 789
5 insert:

6 (10) ACCRUED SERVICE VALUE.—Prior to July 1, 2011, a member
7 of the Elected Officers' Class who is a Supreme Court justice,
8 district court of appeal judge, circuit judge, or county court
9 judge shall receive judicial retirement credit of 3 1/3 percent
10 of average final compensation, and all other members shall
11 receive elected officer retirement credit of 3 percent of
12 average final compensation, for each year of creditable service



791024

13 in such class. Effective July 1, 2011, all members of such class
14 shall receive a retirement credit of 1.6 percent of average
15 compensation.

16
17 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

18 And the directory clause is amended as follows:

19 Delete lines 700 - 701

20 and insert:

21 paragraph (c) is added to that subsection, and subsections (8)
22 and (10) of that section are amended, to read:

23
24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 After line 4374

27 insert:

28 revising the amount of the judicial retirement credit
29 based on average final compensation;



478338

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Fasano) recommended the following:

Senate Amendment to Amendment (200064) (with title amendment)

Delete lines 1438 - 1440
and insert:

1. The retiree ~~retirees~~ may not be reemployed with an employer participating in the Florida Retirement System ~~until such person has been retired for 6 calendar months.~~

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

And the title is amended as follows:



478338

13 After line 4411
14 insert:
15 deleting a limitation on when a retiree can be
16 reemployed with an employer participating in the
17 Florida Retirement System;



696342

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Governmental Oversight and Accountability
(Latvala) recommended the following:

Senate Amendment to Amendment (200064)

Delete line 4344

and insert:

act, this act shall take effect July 1, 2011.



The Public Is Our Special Interest

The Honorable Senator Mike Haridopolos

Feb. 12, 2011

Capitol Office
420 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399
(850) 487-5056

Dear Senator Haridopolos,

I am writing you today as a public employee of the state of Florida. As I am sure you are aware, the State faces a dire financial crisis not unlike many other states at this time. Newly elected Governor Scott has proposed closing more than half of the budget deficit by cutting 5% of the pay of workers for the state, universities, colleges, counties, schools and cities. While this plan is not only ineffective, it is also unreasonable. Many of these state workers, such as myself, have gone more than five years without getting raises while being forced to take furlough days and reduced salaries. This is not only unreasonable but unsustainable as well. This strips us of our very dignity. The average annual benefit is below the income threshold for Medicaid so that thousands of retirees already qualify for public assistance. After working many years serving the great state of Florida, I would like to be able to retire in peace.

A study by the legislature concluded that closing the retirement system would force governments at levels to pay increasing contributions for decades. This is because new employees would go to Wall Street accounts, but the retirees who are owed pensions would be paid for by Florida tax payers. As a representative of the people, I'm sure you understand the frustration this will cause, not only citizens of Florida, but the employees it affects as well.

As President of the Florida State Senate, I am putting my trust in you, Senator Haridopolos. Florida has one of the most well funded retirement systems in the country. Stand up for the very citizens that fund that retirement system. The governor's plans fill a short term deficit with devastating long term effects. Please reconsider what Governor Scott is proposing and oppose the drastic pay cuts to public employees.

Regards,

Michael J. MacHardy
1154 James Ave.
Deltona, FL 32738-6165
(386) 574-3750

American Federation of State, County and Municipal Employees, AFL-CIO

2738 North Forsyth Road • Winter Park, Florida 32792

(407) 673-0740 • FAX (407) 673-2918 • www.afscmeff.org

Dear Florida Senate President Mike Haridopolos,

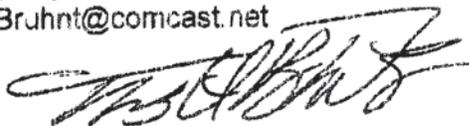
As a strong supporter of you for quite some time I hope that this letter will find you personally reading it. Sir I am a Firefighter (rank and file and not in management) who is not in the state's retirement system, but that of our own that is doing well and strong considering the economic climate we are in. I am not one to write lengthy letters so I will hit topics and be brief. I will later include my phone number so that maybe you will take the time to call so I might be able to convey in more detail and answer any questions you may have. It is my hope you will see where and why I support some of the things that you and the Governor are doing and were I strongly feel a long term major mistake will be made.

I must say: I was a Union member up until about a year ago. I resigned stating in writing I could no longer support a national (agenda) with my money (dues) that I was vehemently against!

1. 30 years ago I took a pay cut to get a job with benefits and a pension and feel it should go back to that mantra.
2. Taking the "cost of Living" adjustment I agree with.
3. Taking the "Drop" I do not (I would hope you'd let me explain what this REALLY is and how it works for me as there is so many misconceptions).
4. Increasing retirement age in the "High Risk" category is ludicrous and invites may unforeseen problems. May I personally invite you & the Governor to live a shift in the life of what we have to do before you make that a final decision?
5. Decreasing the retirement factor from 3 to 2 you will see the best quality paramedics leave this state. This is a multi-faceted pitfall. (I know because I watched something similarly happen before.... In 30 years you see a lot).
6. Making such abrupt changes will put many who planned their retirement by the rules into hardships. A planned and phased approach is fair to the tax payers and the public employee who has usually given many years of faithful service.
7. Going after strictly retirements VS the most publically visible problem "High Salaries" by administrators is inviting headaches on a variety of different scales.

Sir coming from a family of politicians I can appreciate your position. My brother was a 2 term county commissioner. My father was a 4 term school board member during the time of bussing. I understand both sides I feel, better than most do. I would hope you would talk to someone that truly see's both sides prospective. I feel I have good common sense solutions to a variety of these problems and would like to share them by phone but hopefully in person with you.

Sincerely,
Thomas H Bruhn Jr (R)
(772) 882 5578
Bruhnt@comcast.net





The Public Is Our Special Interest

The Honorable Senator Mike Haridopolos

Feb. 12, 2011

Capitol Office
420 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399
(850) 487-5056

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Regards,

Stella Maria Moore
3300 S. NOVA RD. LOT 416
PORT ORANGE FL 32129

American Federation of State, County and Municipal Employees, AFL-CIO

2735 North Forsyth Road • Winter Park, Florida 32782

(407) 673-0740 • FAX (407) 673-2918 • www.afscme-fl.org





The Public Is Our Special Interest

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Feb. 12, 2011

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Regards,

Andrew E. Mikos
Andrew E. Mikos

American Federation of State, County and Municipal Employees, AFL-CIO
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Regards,

Cafe manager Volusia County Schools

American Federation of State, County and Municipal Employees, AFL-CIO

2738 North Forsyth Road • Winter Park, Florida 32792
(407) 673-0740 • FAX (407) 673-2918 • www.afscme79.org





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420 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399
(850) 487-5056

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Regards, *Michael Reid*
123 Carolina Lake Dr #305
Daytona Beach FL 32114

American Federation of State, County and Municipal Employees, AFL-CIO
2738 North Forsyth Road • Winter Park, Florida 32792
(407) 673-0740 • FAX (407) 673-2918 • www.afscmeff.org



February 14, 2011

RECEIVED

Senator Mike Haridopolos,
Florida Senate President
420 Senate Office Building
404 S Monroe ST
Tallahassee, FL 32399-6526

2011 FEB 17 P 2:05

OFFICE OF THE
SENATE PRESIDENT

Senator Haridopolos:

Those of us public servants, members of the Florida Retirement System who were hired under the idea that our state government would keep their word to pay us a pension at the end of our careers under the guidelines established at the time of employment, our families, and friends reject your attempts to needlessly overhaul our retirement system.

We REJECT your attempts to place a 5% contribution on our paychecks that equals a tax on public servants.

We REJECT your attempts to end the DROP for qualified FRS members.

We REJECT your attempts to eliminate the 3% COLA on retirees.

We REJECT your attempts to lower the 3% multiplier of special risk members to 2%.

We REJECT your attempts to expand the Average Final Compensation (AFC) from the highest 5 years to the entire career.

We REJECT your attempts to place all newly hired employees in a 401-k type account greatly reducing the FRS fund.

We REJECT any other malicious attempt that you may have against our very healthy and secure FRS, our state, county, school boards, and municipal agencies.

Signature: Marten Abdala

Print Name: Marten Abdala

Address: 12331 NW 7 Trail

Miami FL 33182

February 14, 2011

RECEIVED

Senator Mike Haridopolos,
Florida Senate President
420 Senate Office Building
404 S Monroe ST
Tallahassee, FL 32399-6526

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Signature: *Vivian Yanes*

Print Name: *Vivian Yanes*

Address: *19740 Bell-Aire Dr*

Cutter Bay, FL 33157

February 14, 2011

Senator Mike Haridopolos,
Florida Senate President
420 Senate Office Building
404 S Monroe ST
Tallahassee, FL 32399-6526

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Signature: Patricia Licata

Print Name: PATRICIA LICATA

Address: 1417 Jay Ct.
Homestead, FL 33035

February 14, 2011

Senator Mike Haridopolos,
Florida Senate President
420 Senate Office Building
404 S Monroe ST
Tallahassee, FL 32399-6526

RECEIVED
2011 FEB 17 P 2:05

OFFICE OF THE
SENATE PRESIDENT

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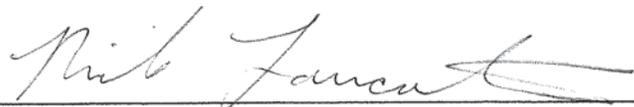
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Signature: 

Print Name: Nicole Lancaster

Address: 8036 SW 80 Ave.

Miami, FL 33143

February 14, 2011

Senator Mike Haridopolos,
Florida Senate President
420 Senate Office Building
404 S Monroe ST
Tallahassee, FL 32399-6526

RECEIVED

2011 FEB 17 P 2:05

OFFICE OF THE
SENATE PRESIDENT

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Signature: _____



Print Name: _____

Michael Moore

Address: _____

9501 Holiday Rd, Cutler Bay, FL

33157

February 14, 2011

RECEIVED

Senator Mike Haridopolos,
Florida Senate President
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404 S Monroe ST
Tallahassee, FL 32399-6526

2011 FEB 17 P 2:05

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Signature: J. Malcolm

Print Name: Lillian Malcolm

Address: 15492 Sw 102 Ave

MIA FLA 33157

Connie Wilson
7180 Oakwood Avenue
Cocoa, FL 32927

RECEIVED

2011 FEB 17 P 2: 05

February 14, 2011

The Honorable State Senator Mike Haridopolos
President of the Florida Senate
409 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

OFFICE OF THE
SENATE PRESIDENT

Dear Sir:

I would like to go on record as being opposed to the recent legislative proposals to diminish retirement benefits that are currently provided to our public servants.

I can only personally speak for my own family, which is headed by a Law Enforcement Officer. My husband began his career 23 years ago with a starting salary that qualified our young family for Federal Government benefits through the WIC program in spite of having a second income. Law Enforcement Officers who began their career in the late 1980s and early 1990s were attracted to the low paying positions in part due to the promise of a guaranteed pension and up to five years participation in the DROP. To now remove those promised benefits from the equation is patently unfair especially considering that it was not possible in those early years to plan and save otherwise for support in the years following a career providing protective services to the community.

Many officers, including my husband, have been seriously injured several times in the course of their careers protecting all of us from people living in our society who can't seem to live within the established rules of society. Additionally, statistics show that the life expectancy for career Law Enforcement Officers is approximately 20 years less than that of a person who made their career in the private sector. Please protect the benefits of these brave and self-sacrificing officers and their families by voting against legislation to reduce their retirement benefits.

I do understand that these legislative proposals would also negatively affect our firefighters and public school teachers, which is also unacceptable in my eyes. These public servants provide a valuable service to our community and also deserve our utmost respect and support. Please vote to protect all of our public servants.

Very Truly Yours,



Connie Wilson



The Public Is Our Special Interest

The Honorable Senator Mike Haridopolos
Capitol Office
420 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399
(850) 487-5056

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Regards,



Edward J. Senclemente
17843 Golden Leaf Ln
Orlando FL 32820

American Federation of State, County and Municipal Employees, AFL-CIO

2738 North Forsyth Road • Winter Park, Florida 32792

(407) 673-0740 • FAX (407) 673-2918 • www.afscmeff.org



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Regards,

Mike Smith 3345

American Federation of State, County and Municipal Employees, AFL-CIO

2738 North Forsyth Road • Winter Park, Florida 32792
(407) 673-0740 • FAX (407) 673-2916 • www.afscmeff.org



The Public Is Our Special Interest

The Honorable Senator Mike Haridopoulos
Capitol Office
420 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399
(850) 487-5056

Senator Haridopoulos:

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We reject your attempts to place a 5% contribution on our paychecks that equals a tax on public servant.

We reject your attempts to end the DROP for qualified FRS members.

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We reject your attempts to lower the 3% multiplier of special risk members to 2%.

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We reject any other malicious attempt that you may have against our very healthy and secure FRS, our state, county, school boards, and municipal agencies.

Respectfully,

Mike Smith 3/3/15

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Senator Haridopolos:

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Respectfully,


President 3345

American Federation of State, County and Municipal Employees, AFL-CIO
2730 North Forsyth Road • Winter Park, Florida 32792
(407) 673-0740 • FAX (407) 673-2918 • www.afscmeff.org





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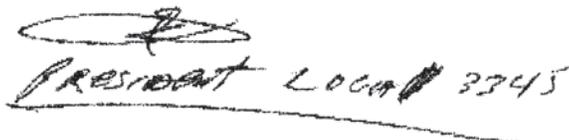
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The Public Is Our Special Interest

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2738 North Forsyth Road • Winter Park, Florida 32792
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AFSCME 79

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