



328098

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
Floor: AD/CR	.	
05/06/2011 06:07 PM	.	
	.	

The Conference Committee on SB 2100, 2nd Eng. recommended the following:

1 **Senate Conference Committee Amendment (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Paragraph (g) of subsection (2) of section
7 110.123, Florida Statutes, is amended to read:

8 110.123 State group insurance program.—

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

10 (g) "Retired state officer or employee" or "retiree" means
11 any state or state university officer or employee who retires
12 under a state retirement system or a state optional annuity or



328098

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

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

28 Section 2. Section 112.0801, Florida Statutes, is amended
29 to read:

30 112.0801 Group insurance; participation by retired
31 employees.-

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



328098

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

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

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



328098

71 (b) Has attained the age specified by s. 72(t)(2)(A)(i) of
72 the Internal Revenue Code and has the years of service required
73 for vesting as set forth in s. 121.021(45) ~~6 years of creditable~~
74 ~~service.~~

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

78 112.363 Retiree health insurance subsidy.—

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

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

85 1. For a member participant of the investment plan Public
86 ~~Employee Optional Retirement Program~~ established under part II
87 of chapter 121, the participant meets the age or service
88 requirements to qualify for normal retirement as set forth in s.
89 121.021(29) and meets the definition of retiree in s.
90 121.4501(2).

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

98 (c) ~~1.~~ Effective July 1, 2001, any person retiring on or
99 after that ~~such~~ date as a member of the Florida Retirement



328098

100 System, including a member ~~any participant~~ of the investment
101 plan ~~defined contribution program~~ administered pursuant to part
102 II of chapter 121, must have satisfied the vesting requirements
103 for his or her membership class under the pension plan ~~Florida~~
104 ~~Retirement System defined benefit program~~ as administered under
105 part I of chapter 121. However,

106 ~~2. Notwithstanding the provisions of subparagraph 1.,~~ a
107 person retiring due to disability must ~~either~~ qualify for a
108 regular or in-line-of-duty disability benefit as provided in s.
109 121.091(4) or qualify for a disability benefit under a
110 disability plan established under part II of chapter 121, as
111 appropriate.

112 (3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

113 (e)1. Beginning July 1, 2001, each eligible retiree of the
114 pension plan ~~defined benefit program~~ of the Florida Retirement
115 System, or, if the retiree is deceased, his or her beneficiary
116 who is receiving a monthly benefit from such retiree's account
117 and who is a spouse, or a person who meets the definition of
118 joint annuitant in s. 121.021~~(28)~~, shall receive a monthly
119 retiree health insurance subsidy payment equal to the number of
120 years of creditable service, as defined in s. 121.021~~(17)~~,
121 completed at the time of retirement multiplied by \$5; however,
122 no eligible retiree or beneficiary may receive a subsidy payment
123 of more than \$150 or less than \$30. If there are multiple
124 beneficiaries, the total payment may ~~must~~ not be greater than
125 the payment to which the retiree was entitled. The health
126 insurance subsidy amount payable to any person receiving the
127 retiree health insurance subsidy payment on July 1, 2001, may
128 ~~shall~~ not be reduced solely by operation of this subparagraph.



328098

129 2. Beginning July 1, 2002, each eligible member participant
130 of the investment plan ~~Public Employee Optional Retirement~~
131 ~~Program~~ of the Florida Retirement System who has met the
132 requirements of this section, or, if the member participant is
133 deceased, his or her spouse who is the member's participant's
134 designated beneficiary, shall receive a monthly retiree health
135 insurance subsidy payment equal to the number of years of
136 creditable service, as provided in this subparagraph, completed
137 at the time of retirement, multiplied by \$5; however, an ~~no~~
138 eligible retiree or beneficiary may not receive a subsidy
139 payment of more than \$150 or less than \$30. For purposes of
140 determining a member's participant's creditable service used to
141 calculate the health insurance subsidy, a member's participant's
142 years of service credit or fraction thereof shall be based on
143 the member's participant's work year as defined in s.
144 121.021(54). Credit must ~~shall~~ be awarded for a full work year
145 if ~~whenever~~ health insurance subsidy contributions have been
146 made ~~as required by law~~ for each month in the member's
147 ~~participant's~~ work year. In addition, all years of creditable
148 service retained under the Florida Retirement System Pension
149 Plan ~~must defined benefit program~~ shall be included as
150 creditable service for purposes of this section. Notwithstanding
151 any other provision in this section ~~to the contrary~~, the spouse
152 at the time of death is ~~shall be~~ the member's participant's
153 beneficiary unless such member participant has designated a
154 different beneficiary subsequent to the member's participant's
155 most recent marriage.

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



328098

158 112.65 Limitation of benefits.—

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

175 Section 5. Paragraph (g) of subsection (3) of section
176 121.011, Florida Statutes, is amended, and paragraph (h) is
177 added to that subsection, to read:

178 121.011 Florida Retirement System.—

179 (3) PRESERVATION OF RIGHTS.—

180 (g) Any member of the Florida Retirement System or any
181 member of an existing system under this chapter who is not
182 retired and who is, has been, or shall be dismissed from
183 employment shall be considered terminated from active membership
184 in such system.

185 1. If such dismissal is rescinded by proper authority or
186 through legal proceedings, the member is eligible to receive



328098

187 retirement service credit for such period of dismissal if
188 ~~provided~~:

189 a. The dismissal action taken against the member is
190 determined to be incorrect and is negated, the employee is made
191 whole for the period of the dismissal or any portion thereof,
192 and employment is reinstated; and

193 b. The employer pays into the Retirement System Trust Fund
194 the total required employer contributions for the period for
195 which the employee is made whole, plus interest at 6.5 percent
196 compounded annually until full payment is made. The employee
197 shall pay the total employee contributions, ~~plus interest~~, if
198 applicable. The employer shall pay the interest on employee
199 contributions, if applicable.

200 2. If the dismissal action is subsequently changed to a
201 suspension by proper authority or through legal proceedings, the
202 member is eligible to receive retirement service credit,
203 provided the member's employment is reinstated, restoring the
204 employee-employer relationship, and the employee pays the total
205 required employer and employee contributions and complies with
206 all requirements in paragraph (e).

207 (h) Effective July 1, 2011, the retirement system shall
208 require employer and employee contributions as provided in s.
209 121.071 and part III of this chapter.

210 Section 6. Subsections (3), (7), and (15), paragraph (a) of
211 subsection (19), paragraph (b) of subsection (22), and
212 subsections (24), (29), (38), (39), (45), (55), and (59) of
213 section 121.021, Florida Statutes, are amended to read:

214 121.021 Definitions.—The following words and phrases as
215 used in this chapter have the respective meanings set forth



328098

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

217 (3) "Florida Retirement System" or "system" means the
218 general retirement system established by this chapter, ~~to be~~
219 ~~known and cited as the "Florida Retirement System,"~~ including,
220 but not limited to, the defined benefit ~~retirement~~ program
221 administered under ~~the provisions of part I of this part,~~
222 referred to as the "Florida Retirement System Pension Plan" or
223 "pension plan," ~~chapter~~ and the defined contribution ~~retirement~~
224 program ~~known as the Public Employee Optional Retirement Program~~
225 ~~and administered under the provisions of part II of this~~
226 ~~chapter,~~ referred to as the "Florida Retirement System
227 Investment Plan" or "investment plan".

228 (7) "Division" means the Division of Retirement in the
229 department. "City" ~~means any municipality duly incorporated~~
230 ~~under the laws of the state.~~

231 (15) "Special risk member" or "Special Risk Class member"
232 means a member of the Florida Retirement System who meets the
233 eligibility and criteria required under s. 121.0515 for
234 participation in the Special Risk Class.

235 ~~(a) Until October 1, 1978, "special risk member" means any~~
236 ~~officer or employee whose application is approved by the~~
237 ~~administrator and who receives salary payments for work~~
238 ~~performed as a peace officer; law enforcement officer; police~~
239 ~~officer; highway patrol officer; custodial employee at a~~
240 ~~correctional or detention facility; correctional agency employee~~
241 ~~whose duties and responsibilities involve direct contact with~~
242 ~~inmates, but excluding secretarial and clerical employees;~~
243 ~~firefighter; or an employee in any other job in the field of law~~
244 ~~enforcement or fire protection if the duties of such person are~~



328098

245 ~~certified as hazardous by his or her employer.~~

246 ~~(b) Effective October 1, 1978, "special risk member" means~~
247 ~~a member of the Florida Retirement System who is designated as a~~
248 ~~special risk member by the division in accordance with s.~~
249 ~~121.0515. Such member must be employed as a law enforcement~~
250 ~~officer, a firefighter, or a correctional officer and must meet~~
251 ~~certain other special criteria as set forth in s. 121.0515.~~

252 ~~(c) Effective October 1, 1999, "special risk member" means~~
253 ~~a member of the Florida Retirement System who is designated as a~~
254 ~~special risk member by the division in accordance with s.~~
255 ~~121.0515. Such member must be employed as a law enforcement~~
256 ~~officer, a firefighter, a correctional officer, an emergency~~
257 ~~medical technician, or a paramedic and must meet certain other~~
258 ~~special criteria as set forth in s. 121.0515.~~

259 ~~(d)1. Effective January 1, 2001, "special risk member"~~
260 ~~includes any member who is employed as a community-based~~
261 ~~correctional probation officer and meets the special criteria~~
262 ~~set forth in s. 121.0515(2)(e).~~

263 ~~2. Effective January 1, 2001, "special risk member"~~
264 ~~includes any professional health care bargaining unit or non-~~
265 ~~unit member who is employed by the Department of Corrections or~~
266 ~~the Department of Children and Family Services and meets the~~
267 ~~special criteria set forth in s. 121.0515(2)(f).~~

268 ~~(e) Effective July 1, 2001, the term "special risk member"~~
269 ~~includes any member who is employed as a youth custody officer~~
270 ~~by the Department of Juvenile Justice and meets the special~~
271 ~~criteria set forth in s. 121.0515(2)(g).~~

272 ~~(f) Effective August 1, 2008, "special risk member"~~
273 ~~includes any member who meets the special criteria for continued~~



328098

274 ~~membership set forth in s. 121.0515(2)(k).~~

275 (19) "Prior service" under part I of this chapter means:

276 (a) Service for which the member had credit under one of
277 the existing systems and received a refund of his or her
278 contributions upon termination of employment. Prior service
279 ~~shall also includes include that service between December 1,~~
280 ~~1970, and the date the system becomes noncontributory~~ for which
281 the member had credit under the Florida Retirement System and
282 received a refund of his or her contributions upon termination
283 of employment.

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

287 (b) ~~Under no circumstances shall~~ Compensation for a member
288 participating in the pension plan ~~defined benefit retirement~~
289 ~~program~~ or the investment plan ~~Public Employee Optional~~
290 ~~Retirement Program~~ of the Florida Retirement System may not
291 include:

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

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

300 (24) (a) "Average final compensation" means:

301 1. For members initially enrolled before July 1, 2011, the
302 average of the 5 highest fiscal years of compensation for



328098

303 creditable service before ~~prior to~~ retirement, termination, or
304 death. For in-line-of-duty disability benefits, if less than 5
305 years of creditable service have been completed, the term
306 ~~"average final compensation"~~ means the average annual
307 compensation of the total number of years of creditable service.
308 Each year used to calculate the ~~in the calculation of~~ average
309 final compensation commences ~~shall commence~~ on July 1.

310 2. For members initially enrolled on or after July 1, 2011,
311 the average of the 8 highest fiscal years of compensation for
312 creditable service before retirement, termination, or death. For
313 in-line-of-duty disability benefits, if less than 8 years of
314 creditable service have been completed, the term means the
315 average annual compensation of the total number of years of
316 creditable service. Each year used to calculate average final
317 compensation commences on July 1.

318 (b) ~~(a)~~ The average final compensation includes ~~shall~~
319 ~~include:~~

- 320 1. Accumulated annual leave payments, not to exceed 500
321 hours; and
322 2. All payments defined as compensation in subsection (22).

323 (c) ~~(b)~~ The average final compensation does ~~shall~~ not
324 include:

- 325 1. Compensation paid to professional persons for special or
326 particular services;
327 2. Payments for accumulated sick leave made due to
328 retirement or termination;
329 3. Payments for accumulated annual leave in excess of 500
330 hours;
331 4. Bonuses as defined in subsection (47);



328098

332 5. Third party payments made on and after July 1, 1990; or
333 6. Fringe benefits (for example, automobile allowances or
334 housing allowances).

335 (29) "Normal retirement date" means the date a member
336 attains normal retirement age and is vested, which is determined
337 as follows:

338 (a)1. If a Regular Class member, a Senior Management
339 Service Class member, or an Elected Officers' Class member
340 initially enrolled before July 1, 2011:

341 ~~a.1.~~ The first day of the month the member ~~completes 6 or~~
342 ~~more years of creditable service and~~ attains age 62; or

343 ~~b.2.~~ The first day of the month following the date the
344 member completes 30 years of creditable service, regardless of
345 age.

346 2. If a Regular Class member, a Senior Management Service
347 Class member, or an Elected Officers' Class member initially
348 enrolled on or after July 1, 2011:

349 a. The first day of the month the member attains age 65; or

350 b. The first day of the month following the date the member
351 completes 33 years of creditable service, regardless of age.

352 (b)1. If a Special Risk Class member initially enrolled
353 before July 1, 2011:

354 ~~a.1.~~ The first day of the month the member ~~completes 6 or~~
355 ~~more years of creditable service in the Special Risk Class and~~
356 attains age 55 and completes the years of creditable service in
357 the Special Risk Class equal to or greater than the years of
358 service required for vesting;

359 ~~b.2.~~ The first day of the month following the date the
360 member completes 25 years of creditable service in the Special



328098

361 Risk Class, regardless of age; or
362 ~~c.3.~~ The first day of the month following the date the
363 member completes 25 years of creditable service and attains age
364 52, which service may include a maximum of 4 years of military
365 service credit if as long as such credit is not claimed under
366 any other system and the remaining years are in the Special Risk
367 Class.

368 2. If a Special Risk Class member initially enrolled on or
369 after July 1, 2011:

370 a. The first day of the month the member attains age 60 and
371 completes the years of creditable service in the Special Risk
372 Class equal to or greater than the years of service required for
373 vesting;

374 b. The first day of the month following the date the member
375 completes 30 years of creditable service in the Special Risk
376 Class, regardless of age; or

377 c. The first day of the month following the date the member
378 completes 30 years of creditable service and attains age 57,
379 which service may include a maximum of 4 years of military
380 service credit if such credit is not claimed under any other
381 system and the remaining years are in the Special Risk Class.

382
383 "Normal retirement age" is attained on the "normal retirement
384 date."

385 (38) "Continuous service" means creditable service as a
386 member, beginning with the first day of employment with an
387 employer covered under a state-administered retirement system
388 consolidated herein and continuing for as long as the member
389 remains in an employer-employee relationship with an employer



328098

390 covered under this chapter. An absence of 1 calendar month or
391 more from an employer's payroll shall be considered a break in
392 continuous service, except for periods of absence during which
393 an employer-employee relationship continues to exist and such
394 period of absence is creditable under this chapter or under one
395 of the existing systems consolidated herein. However, a law
396 enforcement officer as defined in s. 121.0515(3)~~(2)~~(a) who was a
397 member of a state-administered retirement system under chapter
398 122 or chapter 321 and who resigned and was subsequently
399 reemployed in a law enforcement position within 12 calendar
400 months of such resignation by an employer under such state-
401 administered retirement system shall be deemed to have not
402 experienced a break in service. Further, with respect to a
403 state-employed law enforcement officer who meets the criteria
404 specified in s. 121.0515(3)~~(2)~~(a), if the absence from the
405 employer's payroll is the result of a "layoff" as defined in s.
406 110.107 or a resignation to run for an elected office that meets
407 the criteria specified in s. 121.0515(3)~~(2)~~(a), no break in
408 continuous service shall be deemed to have occurred if the
409 member is reemployed as a state law enforcement officer or is
410 elected to an office which meets the criteria specified in s.
411 121.0515(3)~~(2)~~(a) within 12 calendar months after the date of
412 the layoff or resignation, notwithstanding the fact that such
413 period of layoff or resignation is not creditable service under
414 this chapter. A withdrawal of contributions will constitute a
415 break in service. Continuous service also includes past service
416 purchased under this chapter, provided such service is
417 continuous within this definition and the rules established by
418 the administrator. The administrator may establish



328098

419 administrative rules and procedures for applying this definition
420 to creditable service authorized under this chapter. Any
421 correctional officer, as defined in s. 943.10, whose
422 participation in the state-administered retirement system is
423 terminated due to the transfer of a county detention facility
424 through a contractual agreement with a private entity pursuant
425 to s. 951.062, shall be deemed an employee with continuous
426 service in the Special Risk Class, provided return to employment
427 with the former employer takes place within 3 years due to
428 contract termination or the officer is employed by a covered
429 employer in a special risk position within 1 year after his or
430 her initial termination of employment by such transfer of its
431 detention facilities to the private entity.

432 (39) (a) "Termination" occurs, except as provided in
433 paragraph (b), when a member ceases all employment relationships
434 with participating employers ~~an employer~~, however:

435 1. For retirements effective before July 1, 2010, if a
436 member is employed by any such employer within the next calendar
437 month, termination shall be deemed not to have occurred. A leave
438 of absence constitutes a continuation of the employment
439 relationship, except that a leave of absence without pay due to
440 disability may constitute termination if such member makes
441 application for and is approved for disability retirement in
442 accordance with s. 121.091(4). The department or state board may
443 require other evidence of termination as it deems necessary.

444 2. For retirements effective on or after July 1, 2010, if a
445 member is employed by any such employer within the next 6
446 calendar months, termination shall be deemed not to have
447 occurred. A leave of absence constitutes a continuation of the



328098

448 employment relationship, except that a leave of absence without
449 pay due to disability may constitute termination if such member
450 makes application for and is approved for disability retirement
451 in accordance with s. 121.091(4). The department or state board
452 may require other evidence of termination as it deems necessary.

453 (b) "Termination" for a member electing to participate in
454 the Deferred Retirement Option Program occurs when the program
455 participant ceases all employment relationships with
456 participating employers ~~an employer~~ in accordance with s.
457 121.091(13), however:

458 1. For termination dates occurring before July 1, 2010, if
459 the member participant is employed by any such employer within
460 the next calendar month, termination will be deemed not to have
461 occurred, except as provided in s. 121.091(13)(b)4.c. A leave of
462 absence shall constitute a continuation of the employment
463 relationship.

464 2. For termination dates occurring on or after July 1,
465 2010, if the member participant becomes employed by any such
466 employer within the next 6 calendar months, termination will be
467 deemed not to have occurred, except as provided in s.
468 121.091(13)(b)4.c. A leave of absence constitutes a continuation
469 of the employment relationship.

470 (c) Effective July 1, 2011, "termination" for a member
471 receiving a refund of employee contributions occurs when a
472 member ceases all employment relationships with participating
473 employers for 3 calendar months. A leave of absence constitutes
474 a continuation of the employment relationship.

475 (45) ~~(a)~~ "Vested" or "vesting" means the guarantee that a
476 member is eligible to receive a future retirement benefit upon



328098

477 completion of the required years of creditable service for the
478 employee's class of membership, even though the member may have
479 terminated covered employment before reaching normal or early
480 retirement date. Being vested does not entitle a member to a
481 disability benefit. Provisions governing entitlement to
482 disability benefits are set forth under s. 121.091(4).

483 (a) (b) Effective July 1, 2001, through June 30, 2011, a 6-
484 year vesting requirement shall be implemented for the defined
485 benefit program of the Florida Retirement System Pension Plan
486 System. Pursuant thereto:

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

491 2. Any member not employed in a regularly established
492 position on July 1, 2001, shall be deemed vested upon completion
493 of 6 years of creditable service if, ~~provided that~~ such member
494 is employed in a covered position for at least 1 work year after
495 July 1, 2001. However, a no member is not ~~shall be~~ required to
496 complete more years of creditable service than would have been
497 required for that member to vest under retirement laws in effect
498 before July 1, 2001.

499 3. Any member initially enrolled in the Florida Retirement
500 System on July 1, 2001, through June 30, 2011, shall be deemed
501 vested upon completion of 6 years of creditable service.

502 (b) Any member initially enrolled in the Florida Retirement
503 System on or after July 1, 2011, shall be vested upon completion
504 of 8 years of creditable service.

505 (55) "Benefit" means any pension payment, lump-sum or



328098

506 periodic, to a member, retiree, or beneficiary, based partially
507 or entirely on employer contributions or employee contributions,
508 if applicable.

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

511 Section 7. Paragraphs (b) and (c) of subsection (2) and
512 subsection (3) of section 121.051, Florida Statutes, are amended
513 to read:

514 121.051 Participation in the system.—

515 (2) OPTIONAL PARTICIPATION.—

516 (b)1. The governing body of any municipality, metropolitan
517 planning organization, or special district in the state may
518 elect to participate in the Florida Retirement System upon
519 proper application to the administrator and may cover all ~~or any~~
520 of its units as approved by the Secretary of Health and Human
521 Services and the administrator. The department shall adopt rules
522 establishing procedures ~~provisions~~ for the submission of
523 documents necessary for such application. Before ~~Prior to~~ being
524 approved for participation in the ~~Florida Retirement~~ system, the
525 governing body of a ~~any such~~ municipality, metropolitan planning
526 organization, or special district that has a local retirement
527 system must ~~shall~~ submit to the administrator a certified
528 financial statement showing the condition of the local
529 retirement system ~~as of a date~~ within 3 months before ~~prior to~~
530 the proposed effective date of membership in the Florida
531 Retirement System. The statement must be certified by a
532 recognized accounting firm that is independent of the local
533 retirement system. All required documents necessary for
534 extending Florida Retirement System coverage must be received by



328098

535 the department for consideration at least 15 days before ~~prior~~
536 ~~to~~ the proposed effective date of coverage. If the municipality,
537 metropolitan planning organization, or special district does not
538 comply with this requirement, the department may require that
539 the effective date of coverage be changed.

540 2. A municipality ~~Any city~~, metropolitan planning
541 organization, or special district that has an existing
542 retirement system covering the employees in the units that are
543 to be brought under the Florida Retirement System may
544 participate only after holding a referendum in which all
545 employees in the affected units have the right to participate.
546 Only those employees electing coverage under the Florida
547 Retirement System by affirmative vote in the ~~said~~ referendum are
548 ~~shall be~~ eligible for coverage under this chapter, and those not
549 participating or electing not to be covered by the Florida
550 Retirement System shall remain in their present systems and are
551 ~~shall not be~~ eligible for coverage under this chapter. After the
552 referendum is held, all future employees are ~~shall be~~ compulsory
553 members of the Florida Retirement System.

554 3. At the time of joining the Florida Retirement System,
555 the governing body of a municipality ~~any city~~, metropolitan
556 planning organization, or special district complying with
557 subparagraph 1. may elect to provide, or not provide, benefits
558 based on past service of officers and employees as described in
559 s. 121.081(1). However, if such employer elects to provide past
560 service benefits, such benefits must be provided for all
561 officers and employees of its covered group.

562 4. Once this election is made and approved it may not be
563 revoked, except pursuant to subparagraphs 5. and 6., and all



328098

564 present officers and employees electing coverage ~~under this~~
565 ~~chapter~~ and all future officers and employees are ~~shall be~~
566 compulsory members of the Florida Retirement System.

567 5. Subject to ~~the conditions set forth in~~ subparagraph 6.,
568 the governing body of a ~~any~~ hospital licensed under chapter 395
569 which is governed by the board of a special district as defined
570 in s. 189.403~~(1)~~ or by the board of trustees of a public health
571 trust created under s. 154.07, hereinafter referred to as
572 "hospital district," and which participates in the Florida
573 Retirement System, may elect to cease participation in the
574 system with regard to future employees in accordance with the
575 following ~~procedure~~:

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

581 b. From 7 to 15 days before such hearing, notice of intent
582 to withdraw, specifying the time and place of the hearing, must
583 be provided in writing to employees of the hospital district
584 proposing partial withdrawal and must be published in a
585 newspaper of general circulation in the area affected, as
586 provided by ss. 50.011-50.031. Proof of publication must ~~of such~~
587 ~~notice shall~~ be submitted to the Department of Management
588 Services.

589 c. The governing body of a ~~any~~ hospital district seeking to
590 partially withdraw from the system must, before such hearing,
591 have an actuarial report prepared and certified by an enrolled
592 actuary, as defined in s. 112.625~~(3)~~, illustrating the cost to



328098

593 the hospital district of providing, through the retirement plan
594 that the hospital district is to adopt, benefits for new
595 employees comparable to those provided under the ~~Florida~~
596 ~~Retirement~~ system.

597 d. Upon meeting all applicable requirements of this
598 subparagraph, and subject to ~~the conditions set forth in~~
599 subparagraph 6., partial withdrawal from the system and adoption
600 of the alternative retirement plan may be accomplished by
601 resolution duly adopted by the hospital district board. The
602 hospital district board must provide written notice of such
603 withdrawal to the division by mailing a copy of the resolution
604 to the division, postmarked by ~~no later than~~ December 15, 1995.
605 The withdrawal shall take effect January 1, 1996.

606 6. Following the adoption of a resolution under sub-
607 subparagraph 5.d., all employees of the withdrawing hospital
608 district who were members of ~~participants in~~ the ~~Florida~~
609 ~~Retirement~~ system before ~~prior to~~ January 1, 1996, shall remain
610 as members of ~~participants in~~ the system for as long as they are
611 employees of the hospital district, and all rights, duties, and
612 obligations between the hospital district, the system, and the
613 employees ~~shall~~ remain in full force and effect. Any employee
614 who is hired or appointed on or after January 1, 1996, may not
615 participate in the ~~Florida Retirement~~ system, and the
616 withdrawing hospital district has ~~shall have~~ no obligation to
617 the system with respect to such employees.

618 (c) Employees of public community colleges or charter
619 technical career centers sponsored by public community colleges,
620 designated in s. 1000.21(3), who are members of the Regular
621 Class of the Florida Retirement System and who comply with the



328098

622 criteria set forth in this paragraph and s. 1012.875 may, in
623 lieu of participating in the Florida Retirement System, elect to
624 withdraw from the system altogether and participate in the State
625 Community College System Optional Retirement Program provided by
626 the employing agency under s. 1012.875.

627 1.a. Through June 30, 2001, the cost to the employer for
628 benefits under the optional retirement program ~~such annuity~~
629 equals the normal cost portion of the employer retirement
630 contribution which would be required if the employee were a
631 member of the pension plan's Regular Class ~~defined benefit~~
632 ~~program~~, plus the portion of the contribution rate required by
633 s. 112.363(8) which would otherwise be assigned to the Retiree
634 Health Insurance Subsidy Trust Fund.

635 b. Effective July 1, 2001, through June 30, 2011, each
636 employer shall contribute on behalf of each member of
637 ~~participant in~~ the optional program an amount equal to 10.43
638 percent of the employee's ~~participant's~~ gross monthly
639 compensation. The employer shall deduct an amount for the
640 administration of the program.

641 c. Effective July 1, 2011, each member shall contribute an
642 amount equal to the employee contribution required under s.
643 121.71(3). The employer shall contribute on behalf of each
644 program member an amount equal to the difference between 10.43
645 percent of the employee's gross monthly compensation and the
646 employee's required contribution based on the employee's gross
647 monthly compensation.

648 d. The employer shall contribute an additional amount to
649 the Florida Retirement System Trust Fund equal to the unfunded
650 actuarial accrued liability portion of the Regular Class



328098

651 contribution rate.

652 2. The decision to participate in the an optional
653 retirement program is irrevocable as long as the employee holds
654 a position eligible for participation, except as provided in
655 subparagraph 3. Any service creditable under the Florida
656 Retirement System is retained after the member withdraws from
657 the system; however, additional service credit in the system may
658 not be earned while a member of the optional retirement program.

659 3. An employee who has elected to participate in the
660 optional retirement program shall have one opportunity, at the
661 employee's discretion, to transfer from the optional retirement
662 program to the pension plan defined benefit program of the
663 Florida Retirement System or to the investment plan established
664 under part II of this chapter ~~Public Employee Optional~~
665 ~~Retirement Program~~, subject to the terms of the applicable
666 optional retirement program contracts.

667 a. If the employee chooses to move to the investment plan
668 ~~Public Employee Optional Retirement Program~~, any contributions,
669 interest, and earnings creditable to the employee under the
670 ~~State Community College System~~ optional retirement program are
671 retained by the employee in the ~~State Community College System~~
672 optional retirement program, and the applicable provisions of s.
673 121.4501(4) govern the election.

674 b. If the employee chooses to move to the pension plan
675 ~~defined benefit program~~ of the Florida Retirement System, the
676 employee shall receive service credit equal to his or her years
677 of service under the ~~State Community College System~~ optional
678 retirement program.

679 (I) The cost for such credit is the amount representing the



328098

680 present value of the employee's accumulated benefit obligation
681 for the affected period of service. The cost shall be calculated
682 as if the benefit commencement occurs on the first date the
683 employee becomes eligible for unreduced benefits, using the
684 discount rate and other relevant actuarial assumptions that were
685 used to value the Florida Retirement System Pension ~~defined~~
686 ~~benefit~~ Plan liabilities in the most recent actuarial valuation.
687 The calculation must include any service already maintained
688 under the pension ~~defined benefit~~ plan in addition to the years
689 under the ~~State Community College System~~ optional retirement
690 program. The present value of any service already maintained
691 must be applied as a credit to total cost resulting from the
692 calculation. The division shall ensure that the transfer sum is
693 prepared using a formula and methodology certified by an
694 enrolled actuary.

695 (II) The employee must transfer from his or her ~~State~~
696 ~~Community College System~~ optional retirement program account and
697 from other employee moneys as necessary, a sum representing the
698 present value of the employee's accumulated benefit obligation
699 immediately following the time of such movement, determined
700 assuming that attained service equals the sum of service in the
701 pension plan ~~defined benefit program~~ and service in the ~~State~~
702 ~~Community College System~~ optional retirement program.

703 4. Participation in the optional retirement program is
704 limited to employees who satisfy the following eligibility
705 criteria:

706 a. The employee is ~~must be~~ otherwise eligible for
707 membership or renewed membership in the Regular Class of the
708 Florida Retirement System, as provided in s. 121.021(11) and



328098

709 (12) or s. 121.122.

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

713 (I) Instructional; or

714 (II) Executive Management, Instructional Management, or
715 Institutional Management and the, ~~if a~~ community college
716 determines that recruiting to fill a vacancy in the position is
717 to be conducted in the national or regional market, and the
718 duties and responsibilities of the position include the
719 formulation, interpretation, or implementation of policies, or
720 the performance of functions that are unique or specialized
721 within higher education and that frequently support the mission
722 of the community college.

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

726 5. Members of Participants ~~in~~ the program are subject to
727 the same reemployment limitations, renewed membership
728 provisions, and forfeiture provisions ~~as are~~ applicable to
729 regular members of the Florida Retirement System under ss.
730 121.091(9), 121.122, and 121.091(5), respectively. A member
731 ~~participant~~ who receives a program distribution funded by
732 employer and required employee contributions is ~~shall be~~ deemed
733 to be retired from a state-administered retirement system if the
734 member participant is subsequently employed with an employer
735 that participates in the Florida Retirement System.

736 6. Eligible community college employees are compulsory
737 members of the Florida Retirement System until, pursuant to s.



328098

738 1012.875, a written election to withdraw from the system and
739 participate in the ~~State Community College System~~ optional
740 retirement program is filed with the program administrator and
741 received by the division.

742 a. A community college employee whose program eligibility
743 results from initial employment shall ~~must~~ be enrolled in the
744 ~~State Community College System~~ optional retirement program
745 retroactive to the first day of eligible employment. The
746 employer and employee retirement contributions paid through the
747 month of the employee plan change shall be transferred to the
748 community college to the employee's optional program account,
749 and, effective the first day of the next month, the employer
750 shall pay the applicable contributions based upon subparagraph
751 1.

752 b. A community college employee whose program eligibility
753 is due to the subsequent designation of the employee's position
754 as one of those specified in subparagraph 4., or due to the
755 employee's appointment, promotion, transfer, or reclassification
756 to a position specified in subparagraph 4., must be enrolled in
757 the program on the first day of the first full calendar month
758 that such change in status becomes effective. The employer and
759 employee retirement contributions paid from the effective date
760 through the month of the employee plan change must be
761 transferred to the community college to the employee's optional
762 program account, and, effective the first day of the next month,
763 the employer shall pay the applicable contributions based upon
764 subparagraph 1.

765 7. Effective July 1, 2003, through December 31, 2008, any
766 member participant of the ~~State Community College System~~



328098

767 optional retirement program who has service credit in the
768 pension ~~defined benefit~~ plan of the Florida Retirement System
769 for the period between his or her first eligibility to transfer
770 from the pension ~~defined benefit~~ plan to the optional retirement
771 program and the actual date of transfer may, during employment,
772 transfer to the optional retirement program a sum representing
773 the present value of the accumulated benefit obligation under
774 the defined benefit retirement program for the period of service
775 credit. Upon transfer, all service credit previously earned
776 under the pension plan ~~defined benefit program of the Florida~~
777 ~~Retirement System~~ during this period is nullified for purposes
778 of entitlement to a future benefit under the pension plan
779 ~~defined benefit program of the Florida Retirement System.~~

780 (3) SOCIAL SECURITY COVERAGE.—Social security coverage
781 shall be provided for all officers and employees who become
782 members under ~~the provisions of~~ subsection (1) or subsection
783 (2). Any modification of the present agreement with the Social
784 Security Administration, or referendum required under the Social
785 Security Act, for the purpose of providing social security
786 coverage for any member shall be requested by the state agency
787 in compliance with the applicable provisions of the Social
788 Security Act governing such coverage. However, retroactive
789 social security coverage for service before ~~prior to~~ December 1,
790 1970, with the employer may ~~shall~~ not be provided for a ~~any~~
791 member who was not covered under the agreement as of November
792 30, 1970. The employer-paid employee contributions specified in
793 s. 121.71(3) are subject to taxes imposed under the Federal
794 Insurance Contributions Act, 26 U.S.C. ss. 3101-3128.

795 Section 8. Section 121.0515, Florida Statutes, is amended



328098

796 to read:

797 121.0515 Special Risk Class membership.—

798 (1) ESTABLISHMENT OF CLASS ~~LEGISLATIVE INTENT~~.—A separate

799 ~~In creating the Special Risk~~ class of membership within the

800 Florida Retirement System, to be known as the "Special Risk

801 Class," is established ~~it is the intent and purpose of the~~

802 ~~Legislature~~ to recognize that persons employed in certain

803 categories of law enforcement, firefighting, criminal detention,

804 and emergency medical care positions are required as one of the

805 essential functions of their positions to perform work that is

806 physically demanding or arduous, or work that requires

807 extraordinary agility and mental acuity, and that such persons,

808 because of diminishing physical and mental faculties, may find

809 that they are not able, without risk to the health and safety of

810 themselves, the public, or their coworkers, to continue

811 performing such duties and thus enjoy the full career and

812 retirement benefits enjoyed by persons employed in other

813 membership classes ~~positions~~ and that, if they find it

814 necessary, due to the physical and mental limitations of their

815 age, to retire at an earlier age and usually with less service,

816 they will suffer an economic deprivation therefrom. To address

817 ~~Therefore, as a means of recognizing~~ the peculiar and special

818 problems of this class of employees, ~~it is the intent and~~

819 ~~purpose of the Legislature to establish~~ a class of retirement

820 membership is established that awards more retirement credit per

821 year of service than that awarded to other employees; however,

822 nothing contained herein shall require ineligibility for Special

823 Risk Class membership upon reaching age 55.

824 (2) MEMBERSHIP.—



328098

825 (a) Until October 1, 1978, "special risk member" means any
826 officer or employee whose application is approved by the
827 administrator and who receives salary payments for work
828 performed as a peace officer; law enforcement officer; police
829 officer; highway patrol officer; custodial employee at a
830 correctional or detention facility; correctional agency employee
831 whose duties and responsibilities involve direct contact with
832 inmates, but excluding secretarial and clerical employees;
833 firefighter; or an employee in any other job in the field of law
834 enforcement or fire protection if the duties of such person are
835 certified as hazardous by his or her employer.

836 (b) Effective October 1, 1978, through September 30, 1999,
837 "special risk member" means a member of the Florida Retirement
838 System who is designated as a special risk member by the
839 division in accordance with this section. Such member must be
840 employed as a law enforcement officer, a firefighter, or a
841 correctional officer and must meet certain other special
842 criteria as set forth in this section.

843 (c) Effective October 1, 1999, "special risk member" means
844 a member of the Florida Retirement System who is designated as a
845 special risk member by the division in accordance with this
846 section. Such member must be employed as a law enforcement
847 officer, a firefighter, a correctional officer, an emergency
848 medical technician, or a paramedic and must meet certain other
849 special criteria as set forth in this section.

850 (d) Effective January 1, 2001, "special risk member"
851 includes:

852 1. Any member who is employed as a community-based
853 correctional probation officer and meets the special criteria



328098

854 set forth in paragraph (3) (e).

855 2. Any professional health care bargaining unit or non-unit
856 member who is employed by the Department of Corrections or the
857 Department of Children and Family Services and meets the special
858 criteria set forth in paragraph (3) (f).

859 (e) Effective July 1, 2001, "special risk member" includes
860 any member who is employed as a youth custody officer by the
861 Department of Juvenile Justice and meets the special criteria
862 set forth in paragraph (3) (g).

863 (f) Effective October 1, 2005, through June 30, 2008, the
864 member must be employed by a law enforcement agency or medical
865 examiner's office in a forensic discipline and meet the special
866 criteria set forth in paragraph (3) (h).

867 (g) Effective July 1, 2008, the member must be employed by
868 the Department of Law Enforcement in the crime laboratory or by
869 the Division of State Fire Marshal in the forensic laboratory
870 and meet the special criteria set forth in paragraph (3) (i).

871 (h) Effective July 1, 2008, the member must be employed by
872 a local government law enforcement agency or medical examiner's
873 office and meet the special criteria set forth in paragraph
874 (3) (j).

875 (i) Effective August 1, 2008, "special risk member"
876 includes any member who meets the special criteria for continued
877 membership set forth in paragraph (3) (k).

878 (3)-(2) CRITERIA.-A member, to be designated as a special
879 risk member, must meet the following criteria:

880 (a) Effective October 1, 1978, the member must be employed
881 as a law enforcement officer and be certified, or required to be
882 certified, in compliance with s. 943.1395; however, sheriffs and



328098

883 elected police chiefs are ~~shall be~~ excluded from meeting the
884 certification requirements of this paragraph. In addition, the
885 member's duties and responsibilities must include the pursuit,
886 apprehension, and arrest of law violators or suspected law
887 violators; or as of July 1, 1982, the member must be an active
888 member of a bomb disposal unit whose primary responsibility is
889 the location, handling, and disposal of explosive devices; or
890 the member must be the supervisor or command officer of a member
891 or members who have such responsibilities. ~~., provided, however,~~
892 Administrative support personnel, including, but not limited to,
893 those whose primary duties and responsibilities are in
894 accounting, purchasing, legal, and personnel, are ~~shall~~ not be
895 included;

896 (b) Effective October 1, 1978, the member must be employed
897 as a firefighter and be certified, or required to be certified,
898 in compliance with s. 633.35 and be employed solely within the
899 fire department of a local government employer or an agency of
900 state government with firefighting responsibilities. In
901 addition, the member's duties and responsibilities must include
902 on-the-scene fighting of fires; as of October 1, 2001, fire
903 prevention, ~~or~~ firefighter training; as of October 1, 2001,
904 direct supervision of firefighting units, fire prevention, or
905 firefighter training; or as of July 1, 2001, aerial firefighting
906 surveillance performed by fixed-wing aircraft pilots employed by
907 the Division of Forestry of the Department of Agriculture and
908 Consumer Services; or the member must be the supervisor or
909 command officer of a member or members who have such
910 responsibilities. ~~., provided, however,~~ Administrative support
911 personnel, including, but not limited to, those whose primary



328098

912 duties and responsibilities are in accounting, purchasing,
913 legal, and personnel, are shall not be included, ~~and further~~
914 ~~provided that~~ All periods of creditable service in fire
915 prevention or firefighter training, or as the supervisor or
916 command officer of a member or members who have such
917 responsibilities, and for which the employer paid the special
918 risk contribution rate, are shall be included;

919 (c) Effective October 1, 1978, the member must be employed
920 as a correctional officer and be certified, or required to be
921 certified, in compliance with s. 943.1395. In addition, the
922 member's primary duties and responsibilities must be the
923 custody, and physical restraint when necessary, of prisoners or
924 inmates within a prison, jail, or other criminal detention
925 facility, or while on work detail outside the facility, or while
926 being transported; or as of July 1, 1984, the member must be the
927 supervisor or command officer of a member or members who have
928 such responsibilities. ~~; provided, however,~~ Administrative
929 support personnel, including, but not limited to, those whose
930 primary duties and responsibilities are in accounting,
931 purchasing, legal, and personnel, are shall not be included;
932 however, wardens and assistant wardens, as defined by rule, are
933 included shall participate in the Special Risk Class;

934 (d) Effective October 1, 1999, the member must be employed
935 by a licensed Advance Life Support (ALS) or Basic Life Support
936 (BLS) employer as an emergency medical technician or a paramedic
937 and be certified in compliance with s. 401.27. In addition, the
938 member's primary duties and responsibilities must include on-
939 the-scene emergency medical care or as of October 1, 2001,
940 direct supervision of emergency medical technicians or



328098

941 paramedics, or the member must be the supervisor or command
942 officer of one or more members who have such responsibility.
943 ~~However,~~ Administrative support personnel, including, but not
944 limited to, those whose primary responsibilities are in
945 accounting, purchasing, legal, and personnel, are ~~shall~~ not be
946 included;

947 (e) Effective January 1, 2001, the member must be employed
948 as a community-based correctional probation officer and be
949 certified, or required to be certified, in compliance with s.
950 943.1395. In addition, the member's primary duties and
951 responsibilities must be the supervised custody, surveillance,
952 control, investigation, and counseling of assigned inmates,
953 probationers, parolees, or community controllees within the
954 community; or the member must be the supervisor of a member or
955 members who have such responsibilities. Administrative support
956 personnel, including, but not limited to, those whose primary
957 duties and responsibilities are in accounting, purchasing, legal
958 services, and personnel management, are ~~shall~~ not be included;
959 however, probation and parole circuit and deputy circuit
960 administrators are included ~~shall participate in the Special~~
961 ~~Risk Class~~;

962 (f) Effective January 1, 2001, the member must be employed
963 in one of the following classes and must spend at least 75
964 percent of his or her time performing duties which involve
965 contact with patients or inmates in a correctional or forensic
966 facility or institution:

- 967 1. Dietitian (class codes 5203 and 5204);
968 2. Public health nutrition consultant (class code 5224);
969 3. Psychological specialist (class codes 5230 and 5231);



328098

- 970 4. Psychologist (class code 5234);
971 5. Senior psychologist (class codes 5237 and 5238);
972 6. Regional mental health consultant (class code 5240);
973 7. Psychological Services Director—DCF (class code 5242);
974 8. Pharmacist (class codes 5245 and 5246);
975 9. Senior pharmacist (class codes 5248 and 5249);
976 10. Dentist (class code 5266);
977 11. Senior dentist (class code 5269);
978 12. Registered nurse (class codes 5290 and 5291);
979 13. Senior registered nurse (class codes 5292 and 5293);
980 14. Registered nurse specialist (class codes 5294 and
981 5295);
982 15. Clinical associate (class codes 5298 and 5299);
983 16. Advanced registered nurse practitioner (class codes
984 5297 and 5300);
985 17. Advanced registered nurse practitioner specialist
986 (class codes 5304 and 5305);
987 18. Registered nurse supervisor (class codes 5306 and
988 5307);
989 19. Senior registered nurse supervisor (class codes 5308
990 and 5309);
991 20. Registered nursing consultant (class codes 5312 and
992 5313);
993 21. Quality management program supervisor (class code
994 5314);
995 22. Executive nursing director (class codes 5320 and 5321);
996 23. Speech and hearing therapist (class code 5406); or
997 24. Pharmacy manager (class code 5251);
998 (g) Effective July 1, 2001, the member must be employed as



328098

999 a youth custody officer and be certified, or required to be
1000 certified, in compliance with s. 943.1395. In addition, the
1001 member's primary duties and responsibilities must be the
1002 supervised custody, surveillance, control, investigation,
1003 apprehension, arrest, and counseling of assigned juveniles
1004 within the community;

1005 (h) Effective October 1, 2005, through June 30, 2008, the
1006 member must be employed by a law enforcement agency or medical
1007 examiner's office in a forensic discipline recognized by the
1008 International Association for Identification and must qualify
1009 for active membership in the International Association for
1010 Identification. The member's primary duties and responsibilities
1011 must include the collection, examination, preservation,
1012 documentation, preparation, or analysis of physical evidence or
1013 testimony, or both, or the member must be the direct supervisor,
1014 quality management supervisor, or command officer of one or more
1015 individuals with such responsibility. Administrative support
1016 personnel, including, but not limited to, those whose primary
1017 responsibilities are clerical or in accounting, purchasing,
1018 legal, and personnel, are ~~shall~~ not be included;

1019 (i) Effective July 1, 2008, the member must be employed by
1020 the Department of Law Enforcement in the crime laboratory or by
1021 the Division of State Fire Marshal in the forensic laboratory in
1022 one of the following classes:

- 1023 1. Forensic technologist (class code 8459);
- 1024 2. Crime laboratory technician (class code 8461);
- 1025 3. Crime laboratory analyst (class code 8463);
- 1026 4. Senior crime laboratory analyst (class code 8464);
- 1027 5. Crime laboratory analyst supervisor (class code 8466);



328098

1028 6. Forensic chief (class code 9602); or
1029 7. Forensic services quality manager (class code 9603);
1030 (j) Effective July 1, 2008, the member must be employed by
1031 a local government law enforcement agency or medical examiner's
1032 office and must spend at least 65 percent of his or her time
1033 performing duties that involve the collection, examination,
1034 preservation, documentation, preparation, or analysis of human
1035 tissues or fluids or physical evidence having potential
1036 biological, chemical, or radiological hazard or contamination,
1037 or use chemicals, processes, or materials that may have
1038 carcinogenic or health-damaging properties in the analysis of
1039 such evidence, or the member must be the direct supervisor of
1040 one or more individuals having such responsibility. If a special
1041 risk member changes to another position within the same agency,
1042 he or she must submit a complete application as provided in
1043 paragraph (4)~~(3)~~(a); or
1044 (k) The member must have already qualified for and be
1045 actively participating in special risk membership under
1046 paragraph (a), paragraph (b), or paragraph (c), must have
1047 suffered a qualifying injury as defined in this paragraph, must
1048 not be receiving disability retirement benefits as provided in
1049 s. 121.091(4), and must satisfy the requirements of this
1050 paragraph.
1051 1. The ability to qualify for the class of membership
1052 defined in paragraph (2) (f) occurs ~~s. 121.021(15) (f) shall occur~~
1053 when two licensed medical physicians, one of whom is a primary
1054 treating physician of the member, certify the existence of the
1055 physical injury and medical condition that constitute a
1056 qualifying injury as defined in this paragraph and that the



328098

1057 member has reached maximum medical improvement after August 1,
1058 2008. The certifications from the licensed medical physicians
1059 must include, at a minimum, that the injury to the special risk
1060 member has resulted in a physical loss, or loss of use, of at
1061 least two of the following: left arm, right arm, left leg, or
1062 right leg; and:

1063 a. That this physical loss or loss of use is total and
1064 permanent, except in the event that the loss of use is due to a
1065 physical injury to the member's brain, in which event the loss
1066 of use is permanent with at least 75-percent loss of motor
1067 function with respect to each arm or leg affected.

1068 b. That this physical loss or loss of use renders the
1069 member physically unable to perform the essential job functions
1070 of his or her special risk position.

1071 c. That, notwithstanding this physical loss or loss of use,
1072 the individual is able to perform the essential job functions
1073 required by the member's new position, as provided in
1074 subparagraph 3.

1075 d. That use of artificial limbs is either not possible or
1076 does not alter the member's ability to perform the essential job
1077 functions of the member's position.

1078 e. That the physical loss or loss of use is a direct result
1079 of a physical injury and not a result of any mental,
1080 psychological, or emotional injury.

1081 2. For the purposes of this paragraph, "qualifying injury"
1082 means an injury sustained in the line of duty, as certified by
1083 the member's employing agency, by a special risk member that
1084 does not result in total and permanent disability as defined in
1085 s. 121.091(4)(b). An injury is a qualifying injury if ~~when~~ the



328098

1086 injury is a physical injury to the member's physical body
1087 resulting in a physical loss, or loss of use, of at least two of
1088 the following: left arm, right arm, left leg, or right leg.
1089 Notwithstanding any other provision of ~~anything in~~ this section
1090 ~~to the contrary~~, an injury that would otherwise qualify as a
1091 qualifying injury is ~~shall~~ not be considered a qualifying injury
1092 if and when the member ceases employment with the employer for
1093 whom he or she was providing special risk services on the date
1094 the injury occurred.

1095 3. The new position, as described in sub-subparagraph 1.c.,
1096 that is required for qualification as a special risk member
1097 under this paragraph is not required to be a position with
1098 essential job functions that entitle an individual to special
1099 risk membership. Whether a new position as described in sub-
1100 subparagraph 1.c. exists and is available to the special risk
1101 member is a decision to be made solely by the employer in
1102 accordance with its hiring practices and applicable law.

1103 4. This paragraph does not grant or create additional
1104 rights for any individual to continued employment or to be hired
1105 or rehired by his or her employer that are not already provided
1106 within the Florida Statutes, the State Constitution, the
1107 Americans with Disabilities Act, if applicable, or any other
1108 applicable state or federal law.

1109 (4) ~~(3)~~ PROCEDURE FOR DESIGNATING.—

1110 (a) Any member of the Florida Retirement System employed by
1111 a county, municipality ~~city~~, or special district who feels that
1112 his or her position ~~he or she~~ meets the criteria set forth in
1113 this section for membership in the Special Risk Class may
1114 request that his or her employer submit an application to the



328098

1115 department requesting that the department designate him or her
1116 as a Special Risk member. If the employer agrees that the member
1117 meets the requirements for Special Risk Class membership, the
1118 employer shall submit an application to the department on ~~in~~
1119 behalf of the employee containing a certification that the
1120 member meets the criteria for Special Risk Class membership set
1121 forth in this section and such other supporting documentation as
1122 may be required by administrative rule. The department shall,
1123 within 90 days, ~~either~~ designate or refuse to designate the
1124 member as a special risk member. If the employer declines to
1125 submit the member's application to the department or if the
1126 department does not designate the member as a special risk
1127 member, the member or the employer may appeal to the State
1128 Retirement Commission, as provided in s. 121.23, for designation
1129 as a special risk member. A member who receives a final
1130 affirmative ruling pursuant to such appeal ~~for Special Risk~~
1131 ~~membership~~ shall have Special Risk Class membership retroactive
1132 to the date such member would have had Special Risk Class
1133 membership had such membership been approved by the employer and
1134 the department, as determined by the department, and the
1135 employer contributions shall be paid in full within 1 year after
1136 such final ruling.

1137 (b)~~1-~~ Applying the criteria set forth in this section, the
1138 department ~~of Management Services~~ shall specify which current
1139 and newly created classes of positions under the uniform
1140 classification plan established pursuant to chapter 110 entitle
1141 the incumbents of positions in those classes to membership in
1142 the Special Risk Class. Only employees employed in the classes
1143 so specified shall be special risk members.



328098

1144 2. ~~If~~ ~~When~~ a class is not specified by the department ~~as~~
1145 ~~provided in subparagraph 1.~~, the employing agency may petition
1146 the State Retirement Commission for approval in accordance with
1147 s. 121.23.

1148 (5)~~(4)~~ REMOVAL OF SPECIAL RISK CLASS MEMBERSHIP.—

1149 (a) Any member who is a special risk member on October 1,
1150 1978, and who fails to meet the criteria for Special Risk Class
1151 membership established by this section shall have his or her
1152 special risk designation removed and thereafter shall be a
1153 regular member and ~~shall~~ earn only regular membership credit.
1154 The department may ~~shall have the authority to~~ review the
1155 special risk designation of members to determine whether or not
1156 those members continue to meet the criteria for Special Risk
1157 Class membership.

1158 (b) Any member who is a special risk member on July 1,
1159 2008, and who became eligible to participate under paragraph
1160 (3)~~(2)~~(h) but fails to meet the criteria for Special Risk Class
1161 membership established by paragraph (3)~~(2)~~(i) or paragraph
1162 (3)~~(2)~~(j) shall have his or her special risk designation removed
1163 and thereafter shall be a Regular Class member and earn only
1164 Regular Class membership credit. The department may review the
1165 special risk designation of members to determine whether or not
1166 those members continue to meet the criteria for Special Risk
1167 Class membership.

1168 (6)~~(5)~~ CREDIT FOR PAST SERVICE.—A special risk member may
1169 purchase retirement credit in the Special Risk Class based upon
1170 past service, and may upgrade retirement credit for such past
1171 service, to the extent of 2 percent of the member's average
1172 monthly compensation as specified in s. 121.091(1)(a) for such



328098

1173 service as follows:

1174 (a) The member may purchase special risk credit for past
1175 service with a municipality ~~city~~ or special district which has
1176 elected to join the Florida Retirement System, or with a
1177 participating agency to which a member's governmental unit was
1178 transferred, merged, or consolidated as provided in s.
1179 121.081(1)(f), if the member was employed with the municipality
1180 ~~city~~ or special district at the time it commenced participating
1181 in the Florida Retirement System or with the governmental unit
1182 at the time of its transfer, merger, or consolidation with the
1183 participating agency. The service must satisfy the criteria set
1184 forth in subsection (3) ~~(2)~~ for Special Risk Class membership as
1185 a law enforcement officer, firefighter, or correctional officer;
1186 however, a ~~ne~~ certificate or waiver of certificate of compliance
1187 with s. 943.1395 or s. 633.35 is not ~~shall be~~ required for such
1188 service.

1189 (b) Contributions for upgrading the additional special risk
1190 credit must ~~pursuant to this subsection shall~~ be equal to the
1191 difference in the employer and, if applicable, employee
1192 contributions paid and the special risk percentage rate of gross
1193 salary in effect at the time of purchase for the period being
1194 claimed, plus interest thereon at the rate of 4 percent a year
1195 compounded annually from the date of such service until July 1,
1196 1975, and 6.5 percent a year thereafter until the date of
1197 payment. This past service may be purchased by the member or by
1198 the employer on behalf of the member.

1199 (7) ~~(6)~~ CREDIT FOR PRIOR SERVICE.—A special risk member who
1200 has creditable service with an employer under chapter 122 or
1201 chapter 321, or was employed as a correctional counselor with



328098

1202 the Department of Corrections between December 1, 1970, and
1203 September 30, 1979, in a position that ~~which~~ satisfies the
1204 criteria provided ~~for~~ in subsection (3) ~~(2)~~ for Special Risk
1205 Class membership except the requirement for a certificate or
1206 waiver of certificate, shall have those years of service counted
1207 towards the attainment of the normal retirement date as a
1208 special risk member under this chapter. The percentage value of
1209 each such year of creditable service under chapter 122, chapter
1210 321, or as a correctional counselor may ~~shall~~ not change as a
1211 result of the application of this subsection. A special risk
1212 member who has taken a refund of contributions for such
1213 creditable service under chapter 122 or chapter 321 and has
1214 reclaimed it as prior service credit under this chapter shall be
1215 permitted to have such creditable service counted towards the
1216 attainment of the normal retirement date for the Special Risk
1217 Class of membership under this chapter.

1218 (8) ~~(7)~~ SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS RETENTION
1219 OF SPECIAL RISK NORMAL RETIREMENT DATE.—

1220 (a) A special risk member who is moved or reassigned to a
1221 nonspecial risk law enforcement, firefighting, correctional, or
1222 emergency medical care administrative support position with the
1223 same agency, or who is subsequently employed in such a position
1224 within ~~with~~ any law enforcement, firefighting, correctional, or
1225 emergency medical care agency under the Florida Retirement
1226 System, shall participate in the Special Risk Administrative
1227 Support Class and ~~shall~~ earn credit for such service at the same
1228 percentage rate as that earned by a regular member.

1229 Notwithstanding ~~the provisions of~~ subsection (5) ~~(4)~~, service in
1230 ~~such~~ an administrative support position ~~shall~~, for purposes of



328098

1231 s. 121.091, applies ~~apply~~ toward satisfaction of the special
1232 risk normal retirement date, as defined in s. 121.021~~(29)(b)~~ if,
1233 ~~provided that~~, while in such position, the member remains
1234 certified as a law enforcement officer, firefighter,
1235 correctional officer, emergency medical technician, or
1236 paramedic; remains subject to reassignment at any time to a
1237 position qualifying for special risk membership; and completes
1238 an aggregate of the 6 or more years of service as a designated
1239 special risk member before ~~prior to~~ retirement which is equal to
1240 or greater than the years of service required to be vested.

1241 (b) Upon application by a member, the provisions of this
1242 subsection ~~shall~~ apply, with respect to such member,
1243 retroactively to October 1, 1978, if ~~provided that~~ the member
1244 was removed from the Special Risk Class effective October 1,
1245 1978, due to a change in special risk criteria as a result of
1246 the enactment of chapter 78-308, Laws of Florida, or was
1247 reassigned or employed for training or career development or to
1248 fill a critical agency need.

1249 (c) The department shall adopt ~~such~~ rules as ~~are~~ required
1250 to administer this subsection.

1251 (d) Notwithstanding any other provision of this subsection
1252 ~~to the contrary~~, this subsection does not apply to any special
1253 risk member who qualifies for continued membership pursuant to
1254 ~~the provisions of~~ paragraph (3) ~~(2)~~ (k).

1255 (9) ~~(8)~~ RESTORATION OF SPECIAL RISK CREDIT FOR SPECIFIED
1256 PERIOD OF EMPLOYMENT.—A special risk member who was removed from
1257 the Special Risk Class effective October 1978, for the sole
1258 reason that he or she did not possess the required certificate
1259 or temporary waiver of certificate, and who obtained



328098

1260 certification and was approved for Special Risk Class membership
1261 on or before June 30, 1982, may ~~shall be permitted to~~ have
1262 special risk credit restored for that period upon:

1263 (a) Certification by his or her employer that all
1264 requirements for Special Risk Class membership except the
1265 requirement for certification or temporary waiver of
1266 certification were met; and

1267 (b) Payment of contributions equal to the difference in the
1268 contributions that were paid during the period and the
1269 contributions required for special risk members during that
1270 period, plus 6.5 percent interest thereon, compounded each June
1271 30 from date of service until date of payment.

1272
1273 This credit may be purchased by the member or by the employer on
1274 behalf of the member.

1275 (10) ~~(9)~~ CREDIT FOR UPGRADED SERVICE.—

1276 (a) Any member of the Special Risk Class who has earned
1277 creditable service through September 30, 1999, in another
1278 membership class of the Florida Retirement System as an
1279 emergency medical technician or paramedic, which service is
1280 within the purview of the Special Risk Class, may purchase
1281 additional retirement credit to upgrade such service to Special
1282 Risk Class service, to the extent of the percentages of the
1283 member's average final compensation provided in s.

1284 121.091(1)(a)2. Contributions for upgrading such service to
1285 Special Risk Class credit must ~~under this subsection shall~~ be
1286 equal to the difference in the contributions paid and the
1287 Special Risk Class contribution rate as a percentage of gross
1288 salary in effect for the period being claimed, plus interest



328098

1289 thereon at the rate of 6.5 percent a year, compounded annually
1290 until the date of payment. This service credit may be purchased
1291 by the employer on behalf of the member.

1292 (b) Any member of the Special Risk Class who has earned
1293 creditable service through September 30, 2001, in another
1294 membership class of the Florida Retirement System whose
1295 responsibilities included fire prevention or firefighter
1296 training, which service is within the purview of the Special
1297 Risk Class, may purchase additional retirement credit to upgrade
1298 such service to Special Risk Class service, to the extent of the
1299 percentages of the member's average final compensation provided
1300 in s. 121.091(1)(a)2. Contributions for upgrading such service
1301 to Special Risk Class credit must ~~under this subsection shall~~ be
1302 equal to the difference in the contributions paid and the
1303 Special Risk Class contribution rate as a percentage of gross
1304 salary in effect for the period being claimed, plus interest
1305 thereon at the rate of 6.5 percent a year, compounded annually
1306 until the date of payment. This service credit may be purchased
1307 by the employer on behalf of the member.

1308 (c) Any member of the Special Risk Class who has earned
1309 creditable service through June 30, 2008, in another membership
1310 class of the Florida Retirement System in a position with the
1311 Department of Law Enforcement or the Division of State Fire
1312 Marshal and became covered by the Special Risk Class as
1313 described in paragraph (3)~~(2)~~(i), or with a local government law
1314 enforcement agency or medical examiner's office and became
1315 covered by the Special Risk Class as described in paragraph
1316 (3)~~(2)~~(j), which service is within the purview of the Special
1317 Risk Class, and is employed in such position on or after July 1,



328098

1318 2008, may purchase additional retirement credit to upgrade such
1319 service to Special Risk Class service, to the extent of the
1320 percentages of the member's average final compensation provided
1321 in s. 121.091(1)(a)2. The cost for such credit must ~~shall~~ be an
1322 amount representing the actuarial accrued liability for the
1323 difference in accrual value during the affected period of
1324 service. The cost shall be calculated using the discount rate
1325 and other relevant actuarial assumptions that were used to value
1326 the Florida Retirement System Pension ~~defined benefit~~ Plan
1327 liabilities in the most recent actuarial valuation. The division
1328 shall ensure that the transfer sum is prepared using a formula
1329 and methodology certified by an enrolled actuary. The cost must
1330 be paid immediately upon notification by the division. The local
1331 government employer may purchase the upgraded service credit on
1332 behalf of the member if the member has been employed by that
1333 employer for at least 3 years.

1334 Section 9. Paragraphs (a) and (d) of subsection (4),
1335 paragraph (b) of subsection (7), and subsections (8) and (10) of
1336 section 121.052, Florida Statutes, are amended, present
1337 paragraph (c) of subsection (7) of that section is redesignated
1338 as paragraph (d), and a new paragraph (c) is added to that
1339 subsection, to read:

1340 121.052 Membership class of elected officers.—

1341 (4) PARTICIPATION BY ELECTED OFFICERS SERVING A SHORTENED
1342 TERM DUE TO APPORTIONMENT, FEDERAL INTERVENTION, ETC.—

1343 (a) A ~~Any~~ duly elected officer whose term of office was
1344 shortened by legislative or judicial apportionment pursuant to
1345 ~~the provisions of~~ s. 16, Art. III of the State Constitution may,
1346 after the term of office to which he or she was elected is



328098

1347 completed, pay into the Florida Retirement System Trust Fund the
1348 amount of contributions that would have been made by the officer
1349 or the officer's employer on his or her behalf, plus 4 percent
1350 interest compounded annually from the date he or she left office
1351 until July 1, 1975, and 6.5 percent interest compounded annually
1352 thereafter, and may receive service credit for the length of
1353 time the officer would have served if such term had not been
1354 shortened by apportionment.

1355 (d)1. Any justice or judge, or any retired justice or judge
1356 who retired before July 1, 1993, who has attained the age of 70
1357 years and who is prevented under s. 8, Art. V of the State
1358 Constitution from completing his or her term of office because
1359 of age may elect to purchase credit for all or a portion of the
1360 months he or she would have served during the remainder of the
1361 term of office; however, ~~but~~ he or she may claim those months
1362 only after the date the service would have occurred. The justice
1363 or judge must pay into the Florida Retirement System Trust Fund
1364 the amount of contributions that would have been made by the
1365 employer on his or her behalf for the period of time being
1366 claimed, plus 6.5 percent interest thereon compounded each June
1367 30 from the date he or she left office, in order to receive
1368 service credit in this class for the period of time being
1369 claimed. After the date the service would have occurred, and
1370 upon payment of the required contributions, the retirement
1371 benefit of a retired justice or judge shall ~~will~~ be adjusted
1372 prospectively to include the ~~this~~ additional creditable service;
1373 however, such adjustment may be made only once.

1374 2. Any justice or judge who does not seek election to a
1375 subsequent term of office because he or she would be prevented



328098

1376 under s. 8, Art. V of the State Constitution from completing
1377 such term of office upon attaining the age of 70 years may elect
1378 to purchase service credit for service as a temporary judge as
1379 assigned by the court if the temporary assignment ~~follows~~
1380 immediately follows the last full term of office served and the
1381 purchase is limited to the number of months of service needed to
1382 vest retirement benefits. To receive retirement credit for such
1383 temporary service beyond termination, the justice or judge must
1384 pay into the Florida Retirement System Trust Fund the amount of
1385 contributions that would have been made by the justice or judge
1386 and the employer on his or her behalf had he or she continued in
1387 office for the period of time being claimed, plus 6.5 percent
1388 interest thereon compounded each June 30 from the date he or she
1389 left office.

1390 (7) CONTRIBUTIONS.—

1391 (b) The employer paying the salary of a member of the
1392 Elected Officers' Class shall contribute an amount as specified
1393 in this subsection or s. 121.71, as appropriate, which shall
1394 constitute the ~~entire~~ employer retirement contribution with
1395 respect to such member. The employer shall also withhold one-
1396 half of the entire contribution of the member required for
1397 social security coverage. Effective July 1, 2011, each member of
1398 the Elected Officers' Class shall pay employee contributions as
1399 specified in s. 121.71.

1400 (c) If a member of the Elected Officers' Class ceases to
1401 fill an office covered by this class for 3 calendar months for
1402 any reason other than retirement and has not been employed in
1403 any capacity with any participating employer for 3 calendar
1404 months, the member may receive a refund of all contributions he



328098

1405 or she has made to the pension plan, subject to the restrictions
1406 otherwise provided in this chapter. Partial refunds are not
1407 permitted. The refund shall not include any interest earnings on
1408 the contributions for a member of the pension plan. Employer
1409 contributions made on behalf of the member are not refundable. A
1410 member may not receive a refund of employee contributions if a
1411 pending or an approved qualified domestic relations order is
1412 filed against the member's retirement account. By obtaining a
1413 refund of contributions, a member waives all rights under the
1414 Florida Retirement System and the health insurance subsidy
1415 provided under s. 112.363 to the service credit represented by
1416 the refunded contributions, except the right to purchase his or
1417 her prior service credit in accordance with s. 121.081(2).

1418 (8) NORMAL RETIREMENT DATE; VESTING REQUIREMENT.—A member
1419 of the Elected Officers' Class shall have the same normal
1420 retirement date and vesting requirement, as those terms are
1421 defined in s. 121.021(29) and (45), for a member of the regular
1422 class of the Florida Retirement System. Any public service
1423 commissioner who was removed from the Elected State Officers'
1424 Class on July 1, 1979, after attaining at least 8 years of
1425 creditable service in that class is ~~shall be~~ considered to have
1426 reached the normal retirement date upon attaining age 62 as
1427 required in s. 121.021(29) (a).

1428 (10) ACCRUED SERVICE VALUE.—A member of the Elected
1429 Officers' Class who is a Supreme Court justice, district court
1430 of appeal judge, circuit judge, or county court judge shall
1431 receive judicial retirement credit of 3 1/3 percent of average
1432 final compensation, and all other members shall receive elected
1433 officer accrual value ~~retirement credit~~ of 3 percent of average



328098

1434 final compensation, for each year of creditable service in such
1435 class.

1436 Section 10. Paragraph (a) of subsection (7) of section
1437 121.053, Florida Statutes, is amended to read:

1438 121.053 Participation in the Elected Officers' Class for
1439 retired members.—

1440 (7) A member who is elected or appointed to an elective
1441 office and who is participating in the Deferred Retirement
1442 Option Program is not subject to termination as defined in s.
1443 121.021, or reemployment limitations as provided in s.
1444 121.091(9), until the end of his or her current term of office
1445 or, if the officer is consecutively elected or reelected to an
1446 elective office eligible for coverage under the Florida
1447 Retirement System, until he or she no longer holds an elective
1448 office, as follows:

1449 (a) At the end of the 60-month DROP period:

1450 1. The officer's DROP account may not accrue additional
1451 monthly benefits, but does continue to earn interest as provided
1452 in s. 121.091(13). However, an officer whose DROP participation
1453 begins on or after July 1, 2010, may not continue to earn such
1454 interest.

1455 2. Retirement contributions, except for unfunded actuarial
1456 liability and health insurance subsidy contributions required in
1457 ss. 121.71(5) and 121.76, are not required of the employer of
1458 the elected officer and additional retirement credit may not be
1459 earned under the Florida Retirement System.

1460 Section 11. Paragraphs (b) and (j) of subsection (1),
1461 paragraph (b) of subsection (3), paragraph (b) of subsection
1462 (4), and paragraphs (c), (d), and (e) of subsection (6) of



328098

1463 section 121.055, Florida Statutes, are amended, present
1464 paragraph (c) of subsection (3) of that section is redesignated
1465 as paragraph (d), and a new paragraph (c) is added to that
1466 subsection, to read:

1467 121.055 Senior Management Service Class.—There is hereby
1468 established a separate class of membership within the Florida
1469 Retirement System to be known as the “Senior Management Service
1470 Class,” which shall become effective February 1, 1987.

1471 (1)

1472 (b)1. Except as provided in subparagraph 2., effective
1473 January 1, 1990, participation in the Senior Management Service
1474 Class is ~~shall be~~ compulsory for the president of each community
1475 college, the manager of each participating municipality ~~city~~ or
1476 county, and all appointed district school superintendents.
1477 Effective January 1, 1994, additional positions may be
1478 designated for inclusion in the Senior Management Service Class
1479 if ~~of the Florida Retirement System, provided that:~~

1480 a. Positions to be included in the class are ~~shall be~~
1481 designated by the local agency employer. Notice of intent to
1482 designate positions for inclusion in the class must ~~shall~~ be
1483 published once a week for 2 consecutive weeks in a newspaper of
1484 general circulation published in the county or counties
1485 affected, as provided in chapter 50.

1486 b. Up to 10 nonelective full-time positions may be
1487 designated for each local agency employer reporting to the
1488 department ~~of Management Services~~; for local agencies with 100
1489 or more regularly established positions, additional nonelective
1490 full-time positions may be designated, not to exceed 1 percent
1491 of the regularly established positions within the agency.



328098

1492 c. Each position added to the class must be a managerial or
1493 policymaking position filled by an employee who is not subject
1494 to continuing contract and serves at the pleasure of the local
1495 agency employer without civil service protection, and who:

1496 (I) Heads an organizational unit; or

1497 (II) Has responsibility to effect or recommend personnel,
1498 budget, expenditure, or policy decisions in his or her areas of
1499 responsibility.

1500 2. In lieu of participation in the Senior Management
1501 Service Class, members of the Senior Management Service Class,
1502 pursuant to ~~the provisions of~~ subparagraph 1., may withdraw from
1503 the Florida Retirement System altogether. The decision to
1504 withdraw from the ~~Florida Retirement~~ system is ~~shall be~~
1505 irrevocable ~~for~~ as long as the employee holds the ~~such a~~
1506 position. Any service creditable under the Senior Management
1507 Service Class shall be retained after the member withdraws from
1508 the ~~Florida Retirement~~ system; however, additional service
1509 credit in the Senior Management Service Class may ~~shall~~ not be
1510 earned after such withdrawal. Such members are ~~shall~~ not be
1511 eligible to participate in the Senior Management Service
1512 Optional Annuity Program.

1513 3. Effective January 1, 2006, through June 30, 2006, an
1514 employee who has withdrawn from the Florida Retirement System
1515 under subparagraph 2. has one opportunity to elect to
1516 participate in ~~either~~ the pension plan ~~defined benefit program~~
1517 or the investment plan ~~Public Employee Optional Retirement~~
1518 ~~Program of the Florida Retirement System.~~

1519 a. If the employee elects to participate in the investment
1520 plan ~~Public Employee Optional Retirement Program~~, membership



328098

1521 shall be prospective, and the applicable provisions of s.
1522 121.4501(4) ~~shall~~ govern the election.

1523 b. If the employee elects to participate in the pension
1524 plan ~~defined benefit program of the Florida Retirement System,~~
1525 the employee shall, upon payment to the system trust fund of the
1526 amount calculated under sub-sub-subparagraph (I), receive
1527 service credit for prior service based upon the time during
1528 which the employee had withdrawn from the system.

1529 (I) The cost for such credit shall be an amount
1530 representing the actuarial accrued liability for the affected
1531 period of service. The cost shall be calculated using the
1532 discount rate and other relevant actuarial assumptions that were
1533 used to value the pension ~~Florida Retirement System defined~~
1534 ~~benefit~~ plan liabilities in the most recent actuarial valuation.
1535 The calculation must ~~shall~~ include any service already
1536 maintained under the pension ~~defined benefit~~ plan in addition to
1537 the period of withdrawal. The actuarial accrued liability
1538 attributable to any service already maintained under the pension
1539 ~~defined benefit~~ plan shall be applied as a credit to the total
1540 cost resulting from the calculation. The division must ~~shall~~
1541 ensure that the transfer sum is prepared using a formula and
1542 methodology certified by an actuary.

1543 (II) The employee must transfer a sum representing the net
1544 cost owed for the actuarial accrued liability in sub-sub-
1545 subparagraph (I) immediately following the time of such
1546 movement, determined assuming that attained service equals the
1547 sum of service in the pension plan ~~defined benefit program~~ and
1548 the period of withdrawal.

1549 (j) Except as may otherwise be provided, a ~~any~~ member of



328098

1550 the Senior Management Service Class may purchase additional
1551 retirement credit in such class for creditable service within
1552 the purview of the Senior Management Service Class retroactive
1553 to February 1, 1987, and may upgrade retirement credit for such
1554 service, to the extent of 2 percent of the member's average
1555 monthly compensation as specified in paragraph (4) (d) for such
1556 service. Contributions for upgrading the additional Senior
1557 Management Service credit must pursuant to this paragraph shall
1558 be equal to the difference in the employer and, if applicable,
1559 employee contributions paid and the Senior Management Service
1560 Class contribution rate as a percentage of gross salary in
1561 effect for the period being claimed, plus interest thereon at
1562 the rate of 6.5 percent a year, compounded annually until the
1563 date of payment. This service credit may be purchased by the
1564 employer on behalf of the member.

1565 (3)

1566 (b) The employer paying the salary of a member of the
1567 Senior Management Service Class shall contribute an amount as
1568 specified in this section or s. 121.71, as appropriate, which
1569 shall constitute the entire employer retirement contribution
1570 with respect to such member. The employer shall also withhold
1571 one-half of the entire contribution of the member required for
1572 social security coverage. Effective July 1, 2011, each member
1573 shall pay employee contributions as specified in s. 121.71.

1574 (c) Upon termination of employment from all participating
1575 employers for 3 calendar months for any reason other than
1576 retirement pursuant to s. 121.021(39) (c), a member may receive a
1577 refund of all contributions he or she has made to the pension
1578 plan, subject to the restrictions otherwise provided in this



328098

1579 chapter. Partial refunds are not permitted. The refund shall not
1580 include any interest earnings on the contributions for a member
1581 of the pension plan. Employer contributions made on behalf of
1582 the member are not refundable. A member may not receive a refund
1583 of employee contributions if a pending or an approved qualified
1584 domestic relations order is filed against the member's
1585 retirement account. By obtaining a refund of contributions, a
1586 member waives all rights under the Florida Retirement System and
1587 the health insurance subsidy provided under s. 112.363 to the
1588 service credit represented by the refunded contributions, except
1589 the right to purchase his or her prior service credit in
1590 accordance with s. 121.081(2).

1591 (4)

1592 (b) Service in an eligible position before ~~prior to~~
1593 February 1, 1987, or after January 31, 1987, shall satisfy the
1594 requirement of attaining the normal retirement date as defined
1595 in s. 121.021(29) for a Senior Management Service Class member,
1596 ~~if provided~~ the employee is a member of the Senior Management
1597 Service Class after January 31, 1987. A member of this class who
1598 fails to complete the 6 years of creditable service required for
1599 vesting in an eligible position must ~~shall be required to~~
1600 satisfy the requirements for the normal retirement date for a
1601 regular member as provided in s. 121.021(29) and vesting as
1602 provided in s. 121.021(45).

1603 (6)

1604 (c) *Participation.*—

1605 1. An eligible employee who is employed on or before
1606 February 1, 1987, may elect to participate in the optional
1607 annuity program in lieu of participating ~~participation~~ in the



328098

1608 Senior Management Service Class. Such election must be made in
1609 writing and filed with the department and the personnel officer
1610 of the employer on or before May 1, 1987. An eligible employee
1611 who is employed on or before February 1, 1987, and who fails to
1612 make an election to participate in the optional annuity program
1613 by May 1, 1987, shall be deemed to have elected membership in
1614 the Senior Management Service Class.

1615 2. Except as provided in subparagraph 6., an employee who
1616 becomes eligible to participate in the optional annuity program
1617 by reason of initial employment commencing after February 1,
1618 1987, may, within 90 days after the date of commencing
1619 employment, elect to participate in the optional annuity
1620 program. Such election must be made in writing and filed with
1621 the personnel officer of the employer. An eligible employee who
1622 does not within 90 days after commencing employment elect to
1623 participate in the optional annuity program shall be deemed to
1624 have elected membership in the Senior Management Service Class.

1625 3. A person who is appointed to a position in the Senior
1626 Management Service Class and who is a member of an existing
1627 retirement system or the Special Risk or Special Risk
1628 Administrative Support Classes of the Florida Retirement System
1629 may elect to remain in such system or class in lieu of
1630 participating ~~participation~~ in the Senior Management Service
1631 Class or optional annuity program. Such election must be made in
1632 writing and filed with the department and the personnel officer
1633 of the employer within 90 days after ~~of~~ such appointment. An ~~Any~~
1634 eligible employee who fails to make an election to participate
1635 in the existing system, the Special Risk Class of the Florida
1636 Retirement System, the Special Risk Administrative Support Class



328098

1637 of the Florida Retirement System, or the optional annuity
1638 program shall be deemed to have elected membership in the Senior
1639 Management Service Class.

1640 4. Except as provided in subparagraph 5., an employee's
1641 election to participate in the optional annuity program is
1642 irrevocable if the employee continues to be employed in an
1643 eligible position and continues to meet the eligibility
1644 requirements set forth in this paragraph.

1645 5. Effective from July 1, 2002, through September 30, 2002,
1646 an any active employee in a regularly established position who
1647 has elected to participate in the Senior Management Service
1648 Optional Annuity Program has one opportunity to choose to move
1649 from the Senior Management Service Optional Annuity Program to
1650 the Florida Retirement System Pension Plan ~~System defined~~
1651 ~~benefit program~~.

1652 a. The election must be made in writing and must be filed
1653 with the department and the personnel officer of the employer
1654 before October 1, 2002, or, in the case of an active employee
1655 who is on a leave of absence on July 1, 2002, within 90 days
1656 after the conclusion of the leave of absence. This election is
1657 irrevocable.

1658 b. The employee shall receive service credit under the
1659 pension plan ~~defined benefit program of the Florida Retirement~~
1660 ~~System~~ equal to his or her years of service under the Senior
1661 Management Service Optional Annuity Program. The cost for such
1662 credit is the amount representing the present value of that
1663 employee's accumulated benefit obligation for the affected
1664 period of service.

1665 c. The employee must transfer the total accumulated



328098

1666 employer contributions and earnings on deposit in his or her
1667 Senior Management Service Optional Annuity Program account. If
1668 the transferred amount is not sufficient to pay the amount due,
1669 the employee must pay a sum representing the remainder of the
1670 amount due. The employee may not retain any employer
1671 contributions or earnings ~~thereon~~ from the Senior Management
1672 Service Optional Annuity Program account.

1673 6. A retiree of a state-administered retirement system who
1674 is initially reemployed on or after July 1, 2010, may not renew
1675 membership in the Senior Management Service Optional Annuity
1676 Program.

1677 (d) *Contributions.*—

1678 1.a. Through June 30, 2001, each employer shall contribute
1679 on behalf of each member of participant in the Senior Management
1680 Service Optional Annuity Program an amount equal to the normal
1681 cost portion of the employer retirement contribution which would
1682 be required if the member participant were a Senior Management
1683 Service Class member of the Florida Retirement System Pension
1684 Plan defined benefit program, plus the portion of the
1685 contribution rate required in s. 112.363(8) that would otherwise
1686 be assigned to the Retiree Health Insurance Subsidy Trust Fund.

1687 b. Effective July 1, 2001, through June 30, 2011, each
1688 employer shall contribute on behalf of each member of
1689 ~~participant in~~ the optional program an amount equal to 12.49
1690 percent of the employee's participant's gross monthly
1691 compensation.

1692 c. Effective July 1, 2011, each member of the optional
1693 annuity program shall contribute an amount equal to the employee
1694 contribution required under s. 121.71(3). The employer shall



328098

1695 contribute on behalf of such employee an amount equal to the
1696 difference between 12.49 percent of the employee's gross monthly
1697 compensation and the amount equal to the employee's required
1698 contribution based on the employee's gross monthly compensation.

1699 d. The department shall deduct an amount approved by the
1700 Legislature to provide for the administration of this program.
1701 The Payment of the contributions, including contributions made
1702 by the employee, to the optional program which is required by
1703 this subparagraph for each participant shall be made by the
1704 employer to the department, which shall forward the
1705 contributions to the designated company or companies contracting
1706 for payment of benefits for the member participant under the
1707 program.

1708 2. Each employer shall contribute on behalf of each member
1709 of participant in the Senior Management Service Optional Annuity
1710 Program an amount equal to the unfunded actuarial accrued
1711 liability portion of the employer contribution which would be
1712 required for members of the Senior Management Service Class in
1713 the Florida Retirement System. This contribution shall be paid
1714 to the department for transfer to the Florida Retirement System
1715 Trust Fund.

1716 3. An Optional Annuity Program Trust Fund shall be
1717 established in the State Treasury and administered by the
1718 department to make payments to provider companies on behalf of
1719 the optional annuity program members participants, and to
1720 transfer the unfunded liability portion of the state optional
1721 annuity program contributions to the Florida Retirement System
1722 Trust Fund.

1723 4. Contributions required for social security by each



328098

1724 employer and employee ~~each participant~~, in the amount required
1725 for social security coverage as now or hereafter may be provided
1726 by the federal Social Security Act shall be maintained for each
1727 member of ~~participant in~~ the Senior Management Service
1728 retirement program and are ~~shall be~~ in addition to the
1729 retirement contributions specified in this paragraph.

1730 5. Each member of ~~participant in~~ the Senior Management
1731 Service Optional Annuity Program may contribute by way of salary
1732 reduction or deduction a percentage amount of the employee's
1733 ~~participant's~~ gross compensation not to exceed the percentage
1734 amount contributed by the employer to the optional annuity
1735 program. Payment of the employee's ~~participant's~~ contributions
1736 shall be made by the employer to the department, which shall
1737 forward the contributions to the designated company or companies
1738 contracting for payment of benefits for the member ~~participant~~
1739 under the program.

1740 (e) *Benefits.*—

1741 1. Benefits under the Senior Management Service Optional
1742 Annuity Program are payable only to members of ~~participants in~~
1743 the program, or their beneficiaries as designated by the member
1744 ~~participant~~ in the contract with the provider company, and must
1745 be paid by the designated company in accordance with the terms
1746 of the annuity contract applicable to the member ~~participant~~. A
1747 member ~~participant~~ must be terminated from all employment
1748 relationships with Florida Retirement System employers for 3
1749 calendar months ~~as provided in s. 121.021(39)~~ to begin receiving
1750 the employer-funded and employee-funded benefit. The member must
1751 meet the definition of termination in s. 121.021(39) beginning
1752 the month after receiving a benefit, including a distribution.



328098

1753 Benefits funded by employer and employee contributions are
1754 payable under the terms of the contract to the member
1755 participant, his or her beneficiary, or his or her estate, in
1756 addition to:

1757 a. A lump-sum payment to the beneficiary upon the death of
1758 the member participant;

1759 b. A cash-out of a de minimis account upon the request of a
1760 former member participant who has been terminated for a minimum
1761 of 6 calendar months from the employment that entitled him or
1762 her to optional annuity program participation. Such cash-out
1763 must be a complete liquidation of the account balance with that
1764 company and is subject to the Internal Revenue Code;

1765 c. A mandatory distribution of a de minimis account of a
1766 former member participant who has been terminated for a minimum
1767 of 6 calendar months from the employment that entitled him or
1768 her to optional annuity program participation as authorized by
1769 the department; or

1770 d. A lump-sum direct rollover distribution whereby all
1771 accrued benefits, plus interest and investment earnings, are
1772 paid from the member's participant's account directly to the
1773 custodian of an eligible retirement plan, as defined in s.
1774 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
1775 member participant.

1776 2. Under the Senior Management Service Optional Annuity
1777 Program, benefits, including employee contributions, are not
1778 payable for employee hardships, unforeseeable emergencies,
1779 loans, medical expenses, educational expenses, purchase of a
1780 principal residence, payments necessary to prevent eviction or
1781 foreclosure on an employee's principal residence, or any other



328098

1782 reason before termination from all employment relationships with
1783 participating employers for 3 calendar months.

1784 ~~3.2.~~ The benefits payable to any person under the Senior
1785 Management Service Optional Annuity Program, and any
1786 contribution accumulated under such program, are not subject to
1787 assignment, execution, or attachment or to any legal process
1788 whatsoever.

1789 ~~4.3.~~ Except as provided in subparagraph ~~5. 4.~~, a member
1790 ~~participant~~ who terminates employment and receives a
1791 distribution, including a rollover or trustee-to-trustee
1792 transfer, funded by employer and required employee contributions
1793 ~~is shall be~~ deemed to be retired from a state-administered
1794 retirement system if the member participant is subsequently
1795 employed with an employer that participates in the Florida
1796 Retirement System.

1797 ~~5.4.~~ A member participant who receives optional annuity
1798 program benefits funded by employer and employee contributions
1799 as a mandatory distribution of a de minimis account authorized
1800 by the department is not considered a retiree.

1801
1802 As used in this paragraph, a "de minimis account" means an
1803 account with a provider company containing employer and employee
1804 contributions and accumulated earnings of not more than \$5,000
1805 made under this chapter.

1806 Section 12. Subsection (2) of section 121.061, Florida
1807 Statutes, is amended to read:

1808 121.061 Funding.—

1809 (2) (a) Should any employer other than a state employer fail
1810 to make the retirement and social security contributions, both



328098

1811 member and employer contributions, required by this chapter,
1812 then, upon request by the administrator, the Department of
1813 Revenue or the Department of Financial Services, as the case may
1814 be, shall deduct the amount owed by the employer from any funds
1815 to be distributed by it to the county, municipality ~~city~~,
1816 metropolitan planning organization, special district, or
1817 consolidated form of government. The amounts so deducted shall
1818 be transferred to the administrator for further distribution to
1819 the trust funds in accordance with this chapter.

1820 (b) Should any employer for whom the municipality ~~city~~ or
1821 county tax collector collects taxes, fail to make the retirement
1822 and social security contributions required by this chapter, the
1823 tax collector, at the request of the administrator and upon
1824 receipt of a certificate from the administrator showing the
1825 amount owed by the employer, shall deduct the amount so
1826 certified from any taxes collected for the employer and remit
1827 the amount to the administrator for further distribution to the
1828 trust funds in accordance with this chapter.

1829 (c) The governing body of each county, municipality ~~city~~,
1830 metropolitan planning organization, special district, or
1831 consolidated form of government participating under this chapter
1832 or the administrator, acting individually or jointly, is hereby
1833 authorized to file and maintain an action in the courts of the
1834 state to require any employer to remit any retirement or social
1835 security member contributions or employer matching payments due
1836 the retirement or social security trust funds under the
1837 provisions of this chapter.

1838 (d) Should the income of any constitutional fee officer, in
1839 any year, be insufficient to make the matching payments required



328098

1840 by this chapter, the board of county commissioners shall provide
1841 such fee officer sufficient funds to make these required
1842 payments when due.

1843 Section 13. Subsections (2) and (5) and paragraph (c) of
1844 subsection (6) of section 121.071, Florida Statutes, are
1845 amended, present paragraph (d) of subsection (6) of that section
1846 is redesignated as paragraph (e), a new paragraph (d) is added
1847 to that subsection, and subsection (7) is added to that section,
1848 to read:

1849 121.071 Contributions.—Contributions to the system shall be
1850 made as follows:

1851 (2) (a) Effective January 1, 1975, or October 1, 1975, as
1852 applicable, and through June 30, 2011, each employer shall make
1853 ~~accomplish~~ the contribution required by subsection (1) by a
1854 procedure in which no employee's gross salary is shall be
1855 reduced. Effective July 1, 2011, each employer and employee
1856 shall pay retirement contributions as specified in s. 121.71.

1857 (b) Upon termination of employment from all participating
1858 employers for 3 calendar months for any reason other than
1859 retirement pursuant to s. 121.021(39) (c), a member may receive
1860 ~~shall be entitled to a full refund of all the contributions he~~
1861 ~~or she has made to the pension prior or subsequent to~~
1862 ~~participation in the noncontributory plan, subject to the~~
1863 restrictions otherwise provided in this chapter. Partial refunds
1864 are not permitted. The refund may not include any interest
1865 earnings on the contributions for a member of the pension plan.
1866 Employer contributions made on behalf of the member are not
1867 refundable. A member may not receive a refund of employee
1868 contributions if a pending or an approved qualified domestic



328098

1869 relations order is filed against his or her retirement account.
1870 By obtaining a refund of contributions, a member waives all
1871 rights under the Florida Retirement System and the health
1872 insurance subsidy to the service credit represented by the
1873 refunded contributions, except the right to purchase his or her
1874 prior service credit in accordance with s. 121.081(2).

1875 (5) Contributions made in accordance with subsections (1),
1876 (2), (3), and (4), ~~and s. 121.71 shall be paid by the employer~~
1877 into the system trust funds in accordance with rules adopted by
1878 the administrator pursuant to chapter 120, except as may be
1879 otherwise specified herein. Effective July 1, 2002,
1880 contributions paid under subsections (1) and (4) and
1881 accompanying payroll data are due and payable no later than the
1882 5th working day of the month immediately following the month
1883 during which the payroll period ended.

1884 (6)

1885 (c) By obtaining a refund of contributions, a member waives
1886 all rights under the Florida Retirement System and the health
1887 insurance subsidy as provided in s. 112.363 to the service
1888 credit represented by the refunded contributions, except the
1889 right to purchase his or her prior service credit in accordance
1890 with s. 121.081(2).

1891 (d) If a member or former member of the pension plan
1892 receives an invalid refund from the Florida Retirement System
1893 Trust Fund, such person must repay the full amount of the
1894 invalid refund, plus interest at 6.5 percent compounded annually
1895 on each June 30 from the date of refund until full payment is
1896 made to the trust fund. The invalid refund must be repaid before
1897 the member retires or, if applicable, transfers to the



328098

1898 investment plan.

1899 (7) Before termination of employment, benefits, including
1900 employee contributions, are not payable under the pension plan
1901 for employee hardships, unforeseeable emergencies, loans,
1902 medical expenses, educational expenses, purchase of a principal
1903 residence, payments necessary to prevent eviction or foreclosure
1904 on an employee's principal residence, or any other reason before
1905 termination from all employment relationships with participating
1906 employers.

1907 Section 14. Paragraphs (b) and (c) of subsection (1) and
1908 subsection (2) of section 121.081, Florida Statutes, are amended
1909 to read:

1910 121.081 Past service; prior service; contributions.—
1911 Conditions under which past service or prior service may be
1912 claimed and credited are:

1913 (1)

1914 (b) Past service earned after January 1, 1975, may be
1915 claimed by officers or employees of a municipality, metropolitan
1916 planning organization, charter school, charter technical career
1917 center, or special district who become a covered group under
1918 this system. The governing body of a covered group may elect to
1919 provide benefits for past service earned after January 1, 1975,
1920 in accordance with this chapter, ~~and~~ The cost for such past
1921 service is established by applying the following formula: The
1922 employer shall contribute an amount equal to the employer
1923 contribution rate in effect at the time the service was earned
1924 and, if applicable, the employee contribution rate, multiplied
1925 by the employee's gross salary for each year of past service
1926 claimed, plus 6.5 percent ~~6.5 percent~~ interest thereon,



328098

1927 compounded annually, for ~~figured on~~ each year of past service,
1928 with interest compounded from date of annual salary earned until
1929 date of payment.

1930 (c) If an employer joins the Florida Retirement System and
1931 does ~~Should the employer~~ not elect to provide past service for
1932 the member at the time of joining, ~~then~~ the member may claim and
1933 pay for the service as provided in same, ~~based on~~ paragraphs (a)
1934 and (b).

1935 (2) Prior service, as defined in s. 121.021~~(19)~~, may be
1936 claimed as creditable service under the Florida Retirement
1937 System after a member has been reemployed for 1 complete year of
1938 creditable service ~~within a period of 12 consecutive months~~,
1939 except as provided in paragraph (c). Service performed as a
1940 member participant of the optional retirement program for the
1941 State University System under s. 121.35 or the Senior Management
1942 Service Optional Annuity Program under s. 121.055 may be used to
1943 satisfy the reemployment requirement of 1 complete year of
1944 creditable service. The member shall not be permitted to make
1945 any contributions for prior service until after completion of
1946 the 1 year of creditable service. If a member does not wish to
1947 claim credit for all of his or her prior service, the service
1948 the member claims must be the most recent period of service. The
1949 required contributions for claiming the various types of prior
1950 service are:

1951 (a) For prior service performed before ~~prior to~~ the date
1952 the system becomes noncontributory for the member and for which
1953 the member had credit under one of the existing retirement
1954 systems and received a refund of contributions upon termination
1955 of employment, the member shall contribute 4 percent of all



328098

1956 salary received during the period being claimed, plus 4 percent
1957 ~~4-percent~~ interest compounded annually from date of refund until
1958 July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest compounded
1959 annually thereafter, until full payment is made to the Florida
1960 Retirement System Trust Fund, and ~~shall~~ receive credit in the
1961 Regular Class. A member who elected to transfer to the Florida
1962 Retirement System from an existing system may receive credit for
1963 prior service under the existing system if he or she was
1964 eligible under the existing system to claim the prior service at
1965 the time of the transfer. Contributions for such prior service
1966 shall be determined by the applicable provisions of the system
1967 under which the prior service is claimed and shall be paid by
1968 the member, with matching contributions paid by the employer at
1969 the time the service was performed. Effective July 1, 1978, the
1970 account of a person who terminated under s. 238.05(3) may not be
1971 charged interest for contributions that remained on deposit in
1972 the Annuity Savings Trust Fund established under chapter 238,
1973 upon retirement under this chapter or chapter 238.

1974 (b) For prior service performed before ~~prior to~~ the date
1975 the system becomes noncontributory for the member and for which
1976 the member had credit under the Florida Retirement System and
1977 received a refund of contributions upon termination of
1978 employment, the member shall contribute at the rate that was
1979 required of him or her during the period of service being
1980 claimed, on all salary received during such period, plus 4
1981 percent ~~4-percent~~ interest compounded annually from date of
1982 refund until July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest
1983 compounded annually thereafter, until the full payment is made
1984 to the Florida Retirement System Trust Fund, and ~~shall~~ receive



328098

1985 credit in the membership class in which the member participated
1986 during the period claimed.

1987 (c) For prior service as defined in s. 121.021(19) (b) and
1988 (c) during which no contributions were made because the member
1989 did not participate in a retirement system, the member shall
1990 contribute 14.38 percent of all salary received during such
1991 period or 14.38 percent of \$100 per month during such period,
1992 whichever is greater, plus 4 percent ~~4-percent~~ interest
1993 compounded annually from the first year of service claimed until
1994 July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest compounded
1995 annually thereafter, until full payment is made to the
1996 Retirement Trust Fund, and shall receive credit in the Regular
1997 Class.

1998 (d) In order to claim credit for prior service as defined
1999 in s. 121.021(19) (d) for which no retirement contributions were
2000 paid during the period of such service, the member shall
2001 contribute the total employee and employer contributions which
2002 were required to be made to the Highway Patrol Pension Trust
2003 Fund, as provided in chapter 321, during the period claimed,
2004 plus 4 percent ~~4-percent~~ interest compounded annually from the
2005 first year of service until July 1, 1975, and 6.5 percent ~~6.5-~~
2006 ~~percent~~ interest compounded annually thereafter, until full
2007 payment is made to the Retirement Trust Fund. However, any
2008 governmental entity that ~~which~~ employed such member may elect to
2009 pay up to 50 percent of the contributions and interest required
2010 to purchase the ~~this~~ prior service credit. The service shall be
2011 credited in accordance with ~~the provisions of~~ the Highway Patrol
2012 Pension Plan in effect during the period claimed unless the
2013 member terminated and withdrew his or her retirement



328098

2014 contributions and was thereafter enrolled in the State and
2015 County Officers and Employees' Retirement System or the Florida
2016 Retirement System, in which case the service shall be credited
2017 as Regular Class service.

2018 (e) For service performed under the Florida Retirement
2019 System after December 1, 1970, which ~~that~~ was never reported to
2020 the division or the department due to error, retirement credit
2021 may be claimed by a member of the Florida Retirement System. The
2022 department shall adopt rules establishing criteria for claiming
2023 such credit and detailing the documentation required to
2024 substantiate the error.

2025 (f) For prior service performed on or after July 1, 2011,
2026 for which the member had credit under the Florida Retirement
2027 System and received a refund of contributions 3 calendar months
2028 after termination of employment, the member shall contribute at
2029 the rate that was required during the period of service being
2030 claimed, plus 6.5 percent interest, compounded annually on each
2031 June 30 from date of refund until the full payment is made to
2032 the Florida Retirement System Trust Fund, and receive credit in
2033 the membership class in which the member participated during the
2034 period claimed.

2035 (g) ~~(f)~~ The employer may not be required to make
2036 contributions for prior service credit for any member, except
2037 that the employer shall pay the employer portion of
2038 contributions for any legislator who elects to withdraw from the
2039 Florida Retirement System and later rejoins the system and pays
2040 any employee contributions required in accordance with s.
2041 121.052(3)(d).

2042 Section 15. Paragraph (a) and (b) of subsection (3),



328098

2043 paragraph (a) and (j) of subsection (4), paragraphs (a) and (c)
2044 of subsection (5), paragraph (d) of subsection (9), paragraphs
2045 (a) and (c) of subsection (13), and paragraph (d) of subsection
2046 (14) of section 121.091, Florida Statutes, are amended to read:

2047 121.091 Benefits payable under the system.—Benefits may not
2048 be paid under this section unless the member has terminated
2049 employment as provided in s. 121.021(39) (a) or begun
2050 participation in the Deferred Retirement Option Program as
2051 provided in subsection (13), and a proper application has been
2052 filed in the manner prescribed by the department. The department
2053 may cancel an application for retirement benefits when the
2054 member or beneficiary fails to timely provide the information
2055 and documents required by this chapter and the department's
2056 rules. The department shall adopt rules establishing procedures
2057 for application for retirement benefits and for the cancellation
2058 of such application when the required information or documents
2059 are not received.

2060 (3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or her
2061 early retirement date, the member shall receive an immediate
2062 monthly benefit that shall begin to accrue on the first day of
2063 the month of the retirement date and be payable on the last day
2064 of that month and each month thereafter during his or her
2065 lifetime. Such benefit shall be calculated as follows:

2066 (a) For a member initially enrolled:

2067 1. Before July 1, 2011, the amount of each monthly payment
2068 shall be computed in the same manner as for a normal retirement
2069 benefit, in accordance with subsection (1), but shall be based
2070 on the member's average monthly compensation and creditable
2071 service as of the member's early retirement date. The benefit so



328098

2072 computed shall be reduced by five-twelfths of 1 percent for each
2073 complete month by which the early retirement date precedes the
2074 normal retirement date of age 62 for a member of the Regular
2075 Class, Senior Management Service Class, or the Elected Officers'
2076 Class, and age 55 for a member of the Special Risk Class, or age
2077 52 if a Special Risk member has completed 25 years of creditable
2078 service in accordance with s. 121.021(29)(b)1.c.

2079 ~~121.021(29)(b)3.~~

2080 2. On or after July 1, 2011, the amount of each monthly
2081 payment shall be computed in the same manner as for a normal
2082 retirement benefit, in accordance with subsection (1), but shall
2083 be based on the member's average monthly compensation and
2084 creditable service as of the member's early retirement date. The
2085 benefit so computed shall be reduced by five-twelfths of 1
2086 percent for each complete month by which the early retirement
2087 date precedes the normal retirement date of age 65 for a member
2088 of the Regular Class, Senior Management Service Class, or the
2089 Elected Officers' Class, and age 60 for a member of the Special
2090 Risk Class, or age 57 if a special risk member has completed 30
2091 years of creditable service in accordance with s.

2092 121.021(29)(b)2.c.

2093 (b) If the employment of a member is terminated by reason
2094 of death within 10 years before normal retirement as described
2095 in s. 121.021(29)(a)1.b. or s. 121.021(29)(a)2.b. subsequent to
2096 the completion of 20 years of creditable service, the monthly
2097 benefit payable to the member's beneficiary shall be calculated
2098 in accordance with subsection (1), but must ~~shall~~ be based on
2099 average monthly compensation and creditable service as of the
2100 date of death. The benefit so computed shall be reduced by five-



328098

2101 twelfths of 1 percent for each complete month by which death
2102 precedes the normal retirement date specified above or the date
2103 on which the member would have attained the normal retirement
2104 date ~~30 years of creditable service~~ had he or she survived and
2105 continued his or her employment, whichever provides a higher
2106 benefit.

2107 (4) DISABILITY RETIREMENT BENEFIT.—

2108 (a) *Disability retirement; entitlement and effective date.*—

2109 1.a. A member who becomes totally and permanently disabled,
2110 as defined in paragraph (b), after completing 5 years of
2111 creditable service, or a member who becomes totally and
2112 permanently disabled in the line of duty regardless of service,
2113 is ~~shall be~~ entitled to a monthly disability benefit; except
2114 that any member with less than 5 years of creditable service on
2115 July 1, 1980, or any person who becomes a member of the Florida
2116 Retirement System on or after such date must have completed 10
2117 years of creditable service before ~~prior to~~ becoming totally and
2118 permanently disabled in order to receive disability retirement
2119 benefits for any disability which occurs other than in the line
2120 of duty. However, if a member employed on July 1, 1980, who has
2121 ~~with~~ less than 5 years of creditable service as of that date,
2122 becomes totally and permanently disabled after completing 5
2123 years of creditable service and is found not to have attained
2124 fully insured status for benefits under the federal Social
2125 Security Act, such member is ~~shall be~~ entitled to a monthly
2126 disability benefit.

2127 b. Effective July 1, 2001, a member of the pension plan
2128 ~~defined benefit retirement program~~ who becomes totally and
2129 permanently disabled, as defined in paragraph (b), after



328098

2130 completing 8 years of creditable service, or a member who
2131 becomes totally and permanently disabled in the line of duty
2132 regardless of service, is ~~shall be~~ entitled to a monthly
2133 disability benefit.

2134 2. If the division has received from the employer the
2135 required documentation of the member's termination of
2136 employment, the effective retirement date for a member who
2137 applies and is approved for disability retirement shall be
2138 established by rule of the division.

2139 3. For a member who is receiving Workers' Compensation
2140 payments, the effective disability retirement date may not
2141 precede the date the member reaches Maximum Medical Improvement
2142 (MMI), unless the member terminates employment before ~~prior to~~
2143 reaching MMI.

2144 (j) *Disability retirement of justice or judge by order of*
2145 *Supreme Court.*—

2146 1. If a member is a justice of the Supreme Court, judge of
2147 a district court of appeal, circuit judge, or judge of a county
2148 court who has served for the number of years equal to, or
2149 greater than, the vesting requirement in s. 121.021(45) ~~6 years~~
2150 ~~or more~~ as an elected constitutional judicial officer, including
2151 service as a judicial officer, in any court abolished pursuant
2152 to Art. V of the State Constitution, and who is retired for
2153 disability by order of the Supreme Court upon recommendation of
2154 the Judicial Qualifications Commission pursuant to the
2155 ~~provisions of~~ Art. V of the State Constitution, the member's
2156 Option 1 monthly benefit as provided in subparagraph (6)(a)1.
2157 may ~~shall~~ not be less than two-thirds of his or her monthly
2158 compensation as of the member's disability retirement date. Such



328098

2159 a member may alternatively elect to receive a disability
2160 retirement benefit under any other option as provided in
2161 paragraph (6) (a).

2162 2. Should any justice or judge who is a member of the
2163 Florida Retirement System be retired for disability by order of
2164 the Supreme Court upon recommendation of the Judicial
2165 Qualifications Commission pursuant to ~~the provisions of~~ Art. V
2166 of the State Constitution, then all contributions to his or her
2167 account and all contributions made on his or her behalf by the
2168 employer shall be transferred to and deposited in the General
2169 Revenue Fund of the state, and there is hereby appropriated
2170 annually out of the General Revenue Fund, to be paid into the
2171 Florida Retirement System Fund, an amount necessary to pay the
2172 benefits of all justices and judges retired from the Florida
2173 Retirement System pursuant to Art. V of the State Constitution.

2174 (5) TERMINATION BENEFITS.—A member whose employment is
2175 terminated prior to retirement retains membership rights to
2176 previously earned member-noncontributory service credit, and to
2177 member-contributory service credit, if the member leaves the
2178 member contributions on deposit in his or her retirement
2179 account. If a terminated member receives a refund of member
2180 contributions, such member may reinstate membership rights to
2181 the previously earned service credit represented by the refund
2182 by completing 1 year of creditable service and repaying the
2183 refunded member contributions, plus interest.

2184 (a) A member whose employment is terminated for any reason
2185 other than death or retirement before ~~prior to~~ becoming vested
2186 is entitled to the return of his or her accumulated
2187 contributions as of the date of termination. Effective July 1,



328098

2188 2011, upon termination of employment from all participating
2189 employers for 3 calendar months as defined in s. 121.021(39)(c)
2190 for any reason other than retirement, a member may receive a
2191 refund of all contributions he or she has made to the pension
2192 plan, subject to the restrictions otherwise provided in this
2193 chapter. The refund may be received as a lump-sum payment, a
2194 rollover to a qualified plan, or a combination of these methods.
2195 Partial refunds are not permitted. The refund may not include
2196 any interest earnings on the contributions for a member of the
2197 pension plan. Employer contributions made on behalf of the
2198 member are not refundable. A member may not receive a refund of
2199 employee contributions if a pending or an approved qualified
2200 domestic relations order is filed against his or her retirement
2201 account. By obtaining a refund of contributions, a member waives
2202 all rights under the Florida Retirement System and the health
2203 insurance subsidy to the service credit represented by the
2204 refunded contributions, except the right to purchase his or her
2205 prior service credit in accordance with s. 121.081(2).

2206 (c) In lieu of the deferred monthly benefit provided in
2207 paragraph (b), the terminated member may elect to receive a
2208 lump-sum amount equal to his or her accumulated contributions as
2209 of the date of termination. Effective July 1, 2011, upon
2210 termination of employment from all participating employers for 3
2211 calendar months as defined in s. 121.021(39)(c) for any reason
2212 other than retirement, a member may receive a refund of all
2213 contributions he or she has made to the pension plan, subject to
2214 the restrictions otherwise provided in this chapter. Partial
2215 refunds are not permitted. The refund may not include any
2216 interest earnings on the contributions for a member of the



328098

2217 pension plan. Employer contributions made on behalf of the
2218 member are not refundable. A member may not receive a refund of
2219 employee contributions if a pending or an approved qualified
2220 domestic relations order is filed against his or her retirement
2221 account. By obtaining a refund of contributions, a member waives
2222 all rights under the Florida Retirement System and the health
2223 insurance subsidy to the service credit represented by the
2224 refunded contributions, except the right to purchase his or her
2225 prior service credit in accordance with s. 121.081(2).

2226 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

2227 (d) ~~The provisions of~~ This subsection applies apply to
2228 retirees, as defined in s. 121.4501(2), of the Florida
2229 Retirement System Investment Plan ~~Public Employee Optional~~
2230 ~~Retirement Program~~, subject to the following conditions:

2231 1. A retiree ~~The retirees~~ may not be reemployed with an
2232 employer participating in the Florida Retirement System until
2233 such person has been retired for 6 calendar months.

2234 2. A retiree employed in violation of this subsection and
2235 an employer that employs or appoints such person are jointly and
2236 severally liable for reimbursement of any benefits paid to the
2237 retirement trust fund from which the benefits were paid,
2238 ~~including the Retirement System Trust Fund and the Public~~
2239 ~~Employee Optional Retirement Program Trust Fund, as appropriate.~~
2240 The employer must have a written statement from the retiree that
2241 he or she is not retired from a state-administered retirement
2242 system.

2243 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and
2244 subject to this section, the Deferred Retirement Option Program,
2245 hereinafter referred to as DROP, is a program under which an



328098

2246 eligible member of the Florida Retirement System may elect to
2247 participate, deferring receipt of retirement benefits while
2248 continuing employment with his or her Florida Retirement System
2249 employer. The deferred monthly benefits shall accrue in the
2250 Florida Retirement System on behalf of the member participant,
2251 plus interest compounded monthly, for the specified period of
2252 the DROP participation, as provided in paragraph (c). Upon
2253 termination of employment, the member participant shall receive
2254 the total DROP benefits and begin to receive the previously
2255 determined normal retirement benefits. Participation in the DROP
2256 does not guarantee employment for the specified period of DROP.
2257 Participation in DROP by an eligible member beyond the initial
2258 60-month period as authorized in this subsection shall be on an
2259 annual contractual basis for all participants.

2260 (a) *Eligibility of member to participate in DROP.*—All
2261 active Florida Retirement System members in a regularly
2262 established position, and all active members of the Teachers'
2263 Retirement System established in chapter 238 or the State and
2264 County Officers' and Employees' Retirement System established in
2265 chapter 122, which are consolidated within the Florida
2266 Retirement System under s. 121.011, are eligible to elect
2267 participation in DROP if:

2268 1. The member is not a renewed member under s. 121.122 or a
2269 member of the State Community College System Optional Retirement
2270 Program under s. 121.051, the Senior Management Service Optional
2271 Annuity Program under s. 121.055, or the optional retirement
2272 program for the State University System under s. 121.35.

2273 2. Except as provided in subparagraph 6., election to
2274 participate is made within 12 months immediately following the



328098

2275 date on which the member first reaches normal retirement date,
2276 or, for a member who reaches normal retirement date based on
2277 service before he or she reaches age 62, or age 55 for Special
2278 Risk Class members, election to participate may be deferred to
2279 the 12 months immediately following the date the member attains
2280 age 57, or age 52 for Special Risk Class members. A member who
2281 delays DROP participation during the 12-month period immediately
2282 following his or her maximum DROP deferral date, except as
2283 provided in subparagraph 6., loses a month of DROP participation
2284 for each month delayed. A member who fails to make an election
2285 within the 12-month limitation period forfeits all rights to
2286 participate in DROP. The member shall advise his or her employer
2287 and the division in writing of the date DROP begins. The
2288 beginning date may be subsequent to the 12-month election period
2289 but must be within the original 60-month participation period
2290 provided in subparagraph (b)1. When establishing eligibility ~~of~~
2291 ~~the member~~ to participate in DROP, the member may elect to
2292 include or exclude any optional service credit purchased by the
2293 member from the total service used to establish the normal
2294 retirement date. A member who has dual normal retirement dates
2295 is eligible to elect to participate in DROP after attaining
2296 normal retirement date in either class.

2297 3. The employer of a member electing to participate in
2298 DROP, or employers if dually employed, shall acknowledge in
2299 writing to the division the date the member's participation in
2300 DROP begins and the date the member's employment and DROP
2301 participation terminates ~~will terminate~~.

2302 4. Simultaneous employment of a member participant by
2303 additional Florida Retirement System employers subsequent to the



328098

2304 commencement of a member's participation in DROP is permissible
2305 if such employers acknowledge in writing a DROP termination date
2306 no later than the member's ~~participant's~~ existing termination
2307 date or the maximum participation period provided in
2308 subparagraph (b)1.

2309 5. A member ~~DROP participant~~ may change employers while
2310 participating in DROP, subject to the following:

2311 a. A change of employment takes ~~must take~~ place without a
2312 break in service so that the member receives salary for each
2313 month of continuous DROP participation. If a member receives no
2314 salary during a month, DROP participation ceases ~~shall cease~~
2315 unless the employer verifies a continuation of the employment
2316 relationship for such member ~~participant~~ pursuant to s.
2317 121.021(39) (b) .

2318 b. The member ~~Such participant~~ and new employer ~~shall~~
2319 notify the division of the identity of the new employer on forms
2320 required by the division.

2321 c. The new employer acknowledges ~~shall acknowledge~~, in
2322 writing, the member's ~~participant's~~ DROP termination date, which
2323 may be extended but not beyond the maximum participation period
2324 provided in subparagraph (b)1., acknowledges ~~shall acknowledge~~
2325 liability for any additional retirement contributions and
2326 interest required if the member ~~participant~~ fails to timely
2327 terminate employment, and is subject to the adjustment required
2328 in sub-subparagraph (c)5.d.

2329 6. Effective July 1, 2001, for instructional personnel as
2330 defined in s. 1012.01(2), election to participate in DROP may be
2331 made at any time following the date on which the member first
2332 reaches normal retirement date. The member shall advise his or



328098

2333 her employer and the division in writing of the date on which
2334 DROP begins. When establishing eligibility of the member to
2335 participate in DROP for the 60-month participation period
2336 provided in subparagraph (b)1., the member may elect to include
2337 or exclude any optional service credit purchased by the member
2338 from the total service used to establish the normal retirement
2339 date. A member who has dual normal retirement dates is eligible
2340 to elect to participate in either class.

2341 (c) *Benefits payable under DROP.*—

2342 1. Effective on the date of DROP participation, the
2343 member's initial normal monthly benefit, including creditable
2344 service, optional form of payment, and average final
2345 compensation, and the effective date of retirement are fixed.
2346 The beneficiary established under the Florida Retirement System
2347 is the beneficiary eligible to receive any DROP benefits payable
2348 if the DROP participant dies before completing the period of
2349 DROP participation. If a joint annuitant predeceases the member,
2350 the member may name a beneficiary to receive accumulated DROP
2351 benefits payable. The retirement benefit, the annual cost of
2352 living adjustments provided in s. 121.101, and interest accrue
2353 monthly in the Florida Retirement System Trust Fund. For members
2354 whose DROP participation begins:

2355 a. Before July 1, 2011, the interest accrues at an
2356 effective annual rate of 6.5 percent compounded monthly, on the
2357 prior month's accumulated ending balance, up to the month of
2358 termination or death, except as provided in s. 121.053(7).

2359 b. On or after July 1, 2011, the interest accrues at an
2360 effective annual rate of 1.3 percent, compounded monthly, on the
2361 prior month's accumulated ending balance, up to the month of



328098

2362 termination or death, except as provided in s. 121.053(7).

2363 2. Each employee who elects to participate in DROP may
2364 elect to receive a lump-sum payment for accrued annual leave
2365 earned in accordance with agency policy upon beginning
2366 participation in DROP. The accumulated leave payment certified
2367 to the division upon commencement of DROP shall be included in
2368 the calculation of the member's average final compensation. The
2369 employee electing the lump-sum payment is not eligible to
2370 receive a second lump-sum payment upon termination, except to
2371 the extent the employee has earned additional annual leave
2372 which, combined with the original payment, does not exceed the
2373 maximum lump-sum payment allowed by the employing agency's
2374 policy or rules. An early lump-sum payment shall be based on the
2375 hourly wage of the employee at the time he or she begins
2376 participation in DROP. If the member elects to wait and receive
2377 a lump-sum payment upon termination of DROP and termination of
2378 employment with the employer, any accumulated leave payment made
2379 at that time may not be included in the member's retirement
2380 benefit, which was determined and fixed by law when the employee
2381 elected to participate in DROP.

2382 3. The effective date of DROP participation and the
2383 effective date of retirement of a DROP participant shall be the
2384 first day of the month selected by the member to begin
2385 participation in DROP, provided such date is properly
2386 established, with the written confirmation of the employer, and
2387 the approval of the division, on forms required by the division.

2388 4. Normal retirement benefits and any interest ~~shall~~
2389 continue to accrue in DROP until the established termination
2390 date of DROP or until the member ~~participant~~ terminates



328098

2391 employment or dies before ~~prior to~~ such date, except as provided
2392 in s. 121.053(7). Although individual DROP accounts may ~~shall~~
2393 not be established, a separate accounting of each member's
2394 ~~participant's~~ accrued benefits under DROP shall be calculated
2395 and provided to the member ~~participants~~.

2396 5. At the conclusion of the member's participation in the
2397 ~~participant's~~ DROP, the division shall distribute the member's
2398 ~~participant's~~ total accumulated DROP benefits, subject to the
2399 following:

2400 a. The division shall receive verification by the member's
2401 ~~participant's~~ employer or employers that the member ~~participant~~
2402 has terminated all employment relationships as provided in s.
2403 121.021(39).

2404 b. The terminated DROP participant or, if deceased, the
2405 member's ~~participant's~~ named beneficiary, shall elect on forms
2406 provided by the division to receive payment of the DROP benefits
2407 in accordance with one of the options listed below. If a member
2408 ~~participant~~ or beneficiary fails to elect a method of payment
2409 within 60 days after termination of DROP, the division shall pay
2410 a lump sum as provided in sub-sub-subparagraph (I).

2411 (I) Lump sum.—All accrued DROP benefits, plus interest,
2412 less withholding taxes remitted to the Internal Revenue Service,
2413 shall be paid to the DROP participant or surviving beneficiary.

2414 (II) Direct rollover.—All accrued DROP benefits, plus
2415 interest, shall be paid from DROP directly to the custodian of
2416 an eligible retirement plan as defined in s. 402(c)(8)(B) of the
2417 Internal Revenue Code. However, in the case of an eligible
2418 rollover distribution to the surviving spouse of a deceased
2419 member ~~participant~~, an eligible retirement plan is an individual



328098

2420 retirement account or an individual retirement annuity as
2421 described in s. 402(c)(9) of the Internal Revenue Code.

2422 (III) Partial lump sum.—A portion of the accrued DROP
2423 benefits shall be paid to DROP participant or surviving spouse,
2424 less withholding taxes remitted to the Internal Revenue Service,
2425 and the remaining DROP benefits must be transferred directly to
2426 the custodian of an eligible retirement plan as defined in s.
2427 402(c)(8)(B) of the Internal Revenue Code. However, in the case
2428 of an eligible rollover distribution to the surviving spouse of
2429 a deceased member participant, an eligible retirement plan is an
2430 individual retirement account or an individual retirement
2431 annuity as described in s. 402(c)(9) of the Internal Revenue
2432 Code. The proportions must be specified by the DROP participant
2433 or surviving beneficiary.

2434 c. The form of payment selected by the DROP participant or
2435 surviving beneficiary must comply with the minimum distribution
2436 requirements of the Internal Revenue Code.

2437 d. A DROP participant who fails to terminate all employment
2438 relationships as provided in s. 121.021(39) shall be deemed as
2439 not retired, and the DROP election is null and void. Florida
2440 Retirement System membership shall be reestablished
2441 retroactively to the date of the commencement of DROP, and each
2442 employer with whom the member participant continues employment
2443 must pay to the Florida Retirement System Trust Fund the
2444 difference between the DROP contributions paid in paragraph (i)
2445 and the contributions required for the applicable Florida
2446 Retirement System class of membership during the period the
2447 member participated in DROP, plus 6.5 percent interest
2448 compounded annually.



328098

2449 6. The retirement benefits of any DROP participant who
2450 terminates all employment relationships as provided in s.
2451 121.021(39) but is reemployed in violation of the reemployment
2452 provisions of subsection (9) are ~~shall be~~ suspended during those
2453 months in which the retiree is in violation. Any retiree in
2454 violation of this subparagraph and any employer that employs or
2455 appoints such person without notifying the division ~~of~~
2456 ~~Retirement~~ to suspend retirement benefits are jointly and
2457 severally liable for any benefits paid during the reemployment
2458 limitation period. The employer must have a written statement
2459 from the retiree that he or she is not retired from a state-
2460 administered retirement system. Any retirement benefits received
2461 by a retiree while employed in violation of the reemployment
2462 limitations must be repaid to the Florida Retirement System
2463 Trust Fund, and his or her retirement benefits shall remain
2464 suspended until payment is made. Benefits suspended beyond the
2465 end of the reemployment limitation period apply toward repayment
2466 of benefits received in violation of the reemployment
2467 limitation.

2468 7. The accrued benefits of any DROP participant, and any
2469 contributions accumulated under the program, are not subject to
2470 assignment, execution, attachment, or any legal process
2471 ~~whatsoever,~~ except for qualified domestic relations court orders
2472 ~~by a court of competent jurisdiction,~~ income deduction orders as
2473 provided in s. 61.1301, and federal income tax levies.

2474 8. DROP participants are not eligible for disability
2475 retirement benefits as provided in subsection (4).

2476 (14) PAYMENT OF BENEFITS.—This subsection applies to the
2477 payment of benefits to a payee (retiree or beneficiary) under



328098

2478 the Florida Retirement System:

2479 (d) A payee whose retirement benefits are reduced by the
2480 application of maximum benefit limits under s. 415(b) of the
2481 Internal Revenue Code, as specified in s. 121.30(5), shall have
2482 the portion of his or her calculated benefit in the Florida
2483 Retirement System Pension System ~~System defined benefit~~ Plan which
2484 exceeds such federal limitation paid through the Florida
2485 Retirement System Preservation of Benefits Plan, as provided in
2486 s. 121.1001.

2487 Section 16. Subsection (1) and paragraph (a) of subsection
2488 (2) of section 121.1001, Florida Statutes, are amended to read:

2489 121.1001 Florida Retirement System Preservation of Benefits
2490 Plan.—Effective July 1, 1999, the Florida Retirement System
2491 Preservation of Benefits Plan is established as a qualified
2492 governmental excess benefit arrangement pursuant to s. 415(m) of
2493 the Internal Revenue Code. The Preservation of Benefits Plan is
2494 created as a separate portion of the Florida Retirement System,
2495 for the purpose of providing benefits to a payee (retiree or
2496 beneficiary) of the Florida Retirement System whose benefits
2497 would otherwise be limited by s. 415(b) of the Internal Revenue
2498 Code.

2499 (1) ELIGIBILITY TO PARTICIPATE IN THE PRESERVATION OF
2500 BENEFITS PLAN.—A payee of the Florida Retirement System shall
2501 participate in the Preservation of Benefits Plan if ~~whenever~~ his
2502 or her earned benefit under the Florida Retirement System
2503 Pension System ~~System defined benefit~~ Plan exceeds the benefit maximum
2504 established under s. 415(b) of the Internal Revenue Code.
2505 Participation in the Preservation of Benefits Plan shall
2506 continue for as long as the payee's earned benefit under the



328098

2507 pension ~~Florida Retirement System defined benefit~~ plan is
2508 reduced by the application of the maximum benefit limit under s.
2509 415(b) of the Internal Revenue Code.

2510 (2) BENEFITS PAYABLE UNDER THE PRESERVATION OF BENEFITS
2511 PLAN.—

2512 (a) On and after July 1, 1999, the division ~~of Retirement~~
2513 shall pay to each eligible payee of the Florida Retirement
2514 System who retires before, on, or after that ~~such~~ date, a
2515 supplemental retirement benefit equal to the difference between
2516 the amount of the payee's monthly retirement benefit which would
2517 have been payable under the Florida Retirement System Pension
2518 ~~System defined benefit~~ Plan if not for a reduction due to the
2519 application of s. 415(b) of the Internal Revenue Code and the
2520 reduced monthly retirement benefit as paid to the payee. The
2521 Preservation of Benefits Plan benefit shall be computed and
2522 payable under the same terms and conditions and to the same
2523 person as would have applied under the pension ~~Florida~~
2524 ~~Retirement System defined benefit~~ plan were it not for the
2525 federal limitation.

2526 Section 17. Subsections (1) and (3) of section 121.101,
2527 Florida Statutes, are amended, present subsections (4) through
2528 (7) of that section are redesignated as subsections (6) through
2529 (9), respectively, and new subsections (4) and (5) are added to
2530 that section, to read:

2531 121.101 Cost-of-living adjustment of benefits.—

2532 (1) The purpose of this section is to provide cost-of-
2533 living adjustments to the monthly benefits payable to ~~all~~
2534 retired members of state-supported retirement systems.

2535 (3) Commencing July 1, 1987, the benefit of each retiree



328098

2536 and annuitant whose effective retirement date is before July 1,
2537 2011, shall be adjusted annually on each July 1 thereafter, as
2538 follows:

2539 (a) For those retirees and annuitants who have never
2540 received a cost-of-living adjustment under this section, the
2541 amount of the monthly benefit payable for the 12-month period
2542 commencing on the adjustment date shall be the amount of the
2543 member's initial benefit plus an amount equal to a percentage of
2544 the member's initial benefit; this percentage is derived by
2545 dividing the number of months the member has received an initial
2546 benefit by 12, and multiplying the result by 3.

2547 (b) For those retirees and annuitants who have received a
2548 cost-of-living adjustment under this subsection ~~section~~, the
2549 adjusted monthly benefit shall be the amount of the monthly
2550 benefit being received on June 30 immediately preceding the
2551 adjustment date plus an amount equal to 3 percent of this
2552 benefit.

2553 (4) For members whose effective retirement date is on or
2554 after July 1, 2011, the benefit of each retiree and annuitant
2555 shall be adjusted annually on July 1 as follows:

2556 (a) For those retirees and annuitants who have never
2557 received a cost-of-living adjustment under this subsection, the
2558 amount of the monthly benefit payable for the 12-month period
2559 commencing on the adjustment date shall be the amount of the
2560 member's initial benefit plus an amount equal to a percentage of
2561 the member's initial benefit. This percentage is derived by
2562 dividing the number of months the member has received an initial
2563 benefit by 12, and multiplying the result by the factor
2564 calculated pursuant to paragraph (c).



328098

2565 (b) For those retirees and annuitants who have received a
2566 cost-of-living adjustment under this subsection, the adjusted
2567 monthly benefit shall be the amount of the monthly benefit being
2568 received on June 30 immediately preceding the adjustment date
2569 plus an amount determined by multiplying the benefit by the
2570 factor calculated pursuant to paragraph (c).

2571 (c) The department shall calculate a cost-of-living factor
2572 for each retiree and beneficiary retiring on or after July 1,
2573 2011. This factor shall equal the product of 3 percent
2574 multiplied by the quotient of the sum of the member's service
2575 credit earned for service before July 1, 2011, divided by the
2576 sum of the member's total service credit earned.

2577 (5) Subject to the availability of funding and the
2578 Legislature enacting sufficient employer contributions
2579 specifically for the purpose of funding the expiration of the
2580 cost-of-living adjustment specified in subsection (4), in
2581 accordance with s. 14, Art. X of the State Constitution, the
2582 cost-of-living adjustment formula provided for in subsection (4)
2583 shall expire effective June 30, 2016, and the benefit of each
2584 retiree and annuitant shall be adjusted on each July 1
2585 thereafter, as provided in subsection (3).

2586 Section 18. Paragraph (b) of subsection (1) of section
2587 121.1115, Florida Statutes, is amended to read:

2588 121.1115 Purchase of retirement credit for out-of-state or
2589 federal service.—Effective January 1, 1995, a member may
2590 purchase creditable service for periods of public employment in
2591 another state and receive creditable service for such periods of
2592 employment. Service with the Federal Government, including any
2593 active military service, may be claimed. Upon completion of each



328098

2594 year of service earned under the Florida Retirement System, a
2595 member may purchase up to 1 year of retirement credit for his or
2596 her out-of-state service, subject to the following provisions:

2597 (1) LIMITATIONS AND CONDITIONS.—To receive credit for the
2598 out-of-state service:

2599 (b) The member must have completed the a minimum of 6 years
2600 of creditable service required for vesting under the Florida
2601 Retirement System, excluding out-of-state service and in-state
2602 service claimed and purchased under s. 121.1122.

2603 Section 19. Paragraph (a) of subsection (2) of section
2604 121.1122, Florida Statutes, is amended to read:

2605 121.1122 Purchase of retirement credit for in-state public
2606 service and in-state service in accredited nonpublic schools and
2607 colleges, including charter schools and charter technical career
2608 centers.—Effective January 1, 1998, a member of the Florida
2609 Retirement System may purchase creditable service for periods of
2610 certain public or nonpublic employment performed in this state,
2611 as provided in this section.

2612 (2) LIMITATIONS AND CONDITIONS.—

2613 (a) A member is not eligible to receive credit for in-state
2614 service under this section until he or she has completed the 6
2615 years of creditable service required for vesting under the
2616 Florida Retirement System, excluding service purchased under
2617 this section and out-of-state service claimed and purchased
2618 under s. 121.1115.

2619 Section 20. Subsection (1) of section 121.121, Florida
2620 Statutes, is amended to read:

2621 121.121 Authorized leaves of absence.—

2622 (1) A member may purchase creditable service for up to 2



328098

2623 work years of authorized leaves of absence, including any leaves
2624 of absence covered under the Family Medical Leave Act, if:

2625 (a) The member has completed the ~~a minimum of 6~~ years of
2626 creditable service required for vesting, excluding periods for
2627 which a leave of absence was authorized;

2628 (b) The leave of absence is authorized in writing by the
2629 employer of the member and approved by the administrator;

2630 (c) The member returns to active employment performing
2631 service with a Florida Retirement System employer in a regularly
2632 established position immediately upon termination of the leave
2633 of absence and remains on the employer's payroll for 1 calendar
2634 month, except that a member who retires on disability while on a
2635 medical leave of absence may ~~shall~~ not be required to return to
2636 employment. A member whose work year is less than 12 months and
2637 whose leave of absence terminates between school years is
2638 eligible to receive credit for the leave of absence if ~~as long~~
2639 ~~as~~ he or she returns to the employment ~~of his or her employer~~ at
2640 the beginning of the next school year and remains on the
2641 employer's payroll for 1 calendar month; and

2642 (d) The member makes the required contributions for service
2643 credit during the leave of absence, which shall be 8 percent
2644 until January 1, 1975, and 9 percent thereafter of his or her
2645 rate of monthly compensation in effect immediately before ~~prior~~
2646 ~~to~~ the commencement of such leave for each month of such period,
2647 plus 4 percent interest until July 1, 1975, and 6.5 percent
2648 interest thereafter on such contributions, compounded annually
2649 each June 30 from the due date of the contribution to date of
2650 payment.

2651 1. Effective July 1, 1980, any leave of absence purchased



328098

2652 pursuant to this section ~~is shall be~~ at the contribution rates
2653 specified in s. 121.071 or s. 121.71 in effect at the time the
2654 leave is granted for the class of membership from which the
2655 leave of absence was granted; however, any member who purchased
2656 leave-of-absence credit before ~~prior to~~ July 1, 1980, for a
2657 leave of absence from a position in a class other than the
2658 regular membership class, may pay the appropriate additional
2659 contributions plus compound interest thereon and receive
2660 creditable service for such leave of absence in the membership
2661 class from which the member was granted the leave of absence.

2662 2. Effective July 1, 2011, any leave of absence purchased
2663 by the member pursuant to this section shall be at the employer
2664 and employee contribution rates specified in s. 121.71 in effect
2665 during the leave for the class of membership from which the
2666 leave of absence was granted.

2667 Section 21. Section 121.125, Florida Statutes, is amended
2668 to read:

2669 121.125 Credit for workers' compensation payment periods.—A
2670 member of the retirement system created by this chapter who has
2671 been eligible or becomes eligible to receive workers'
2672 compensation payments for an injury or illness occurring during
2673 his or her employment while a member of any state retirement
2674 system shall, upon return to active employment with a covered
2675 employer for 1 calendar month or upon approval for disability
2676 retirement in accordance with s. 121.091(4), receive full
2677 retirement credit for the period prior to such return to active
2678 employment or disability retirement for which the workers'
2679 compensation payments were received. However, a ~~no~~ member may
2680 not receive retirement credit for any such period occurring



328098

2681 after the earlier of the date of maximum medical improvement as
2682 defined in s. 440.02 or the date termination has occurred as
2683 defined in s. 121.021(39). The employer of record at the time of
2684 the worker's compensation injury or illness shall make the
2685 required employer and employee retirement contributions based on
2686 the member's rate of monthly compensation immediately prior to
2687 his or her receiving workers' compensation payments for
2688 retirement credit received by the member. The employer of record
2689 at the time of the workers' compensation injury or illness shall
2690 be assessed by the division a penalty of 1 percent of the
2691 contributions on all contributions not paid on the first payroll
2692 report after the member becomes eligible to receive credit. This
2693 delinquent assessment may not be waived.

2694 Section 22. Section 121.161, Florida Statutes, is reenacted
2695 to read:

2696 121.161 References to other laws include amendments.—
2697 References in this chapter to state or federal laws or
2698 agreements are intended to include such laws as they now exist
2699 or may hereafter be amended.

2700 Section 23. Section 121.182, Florida Statutes, is amended
2701 to read:

2702 121.182 Retirement annuities authorized for city and county
2703 personnel.—Municipalities ~~Cities~~ and counties are authorized to
2704 purchase annuities for all municipal ~~city~~ and county personnel
2705 with 25 or more years of creditable service who have reached age
2706 50 and have applied for retirement under the Florida Retirement
2707 System. No such annuity shall provide for more than the total
2708 difference in retirement income between the retirement benefit
2709 based on average monthly compensation and creditable service as



328098

2710 of the member's early retirement date and the early retirement
2711 benefit. Municipalities ~~Cities~~ and counties may also purchase
2712 annuities for members of the Florida Retirement System who have
2713 out-of-state service in another state or country which is
2714 documented as valid by the appropriate city or county. Such
2715 annuities may be based on no more than 5 years of out-of-state
2716 service and may equal, but not exceed, the benefits that would
2717 be payable under the Florida Retirement System if credit for
2718 out-of-state service was authorized under that system.

2719 Municipalities ~~Cities~~ and counties are authorized to invest
2720 funds, purchase annuities, or provide local supplemental
2721 retirement programs for purposes of providing annuities for city
2722 or county personnel. All retirement annuities shall comply with
2723 s. 14, Art. X of the State Constitution.

2724 Section 24. Paragraphs (g) and (i) of subsection (3),
2725 subsection (4), and subsection (5) of section 121.35, Florida
2726 Statutes, are amended to read:

2727 121.35 Optional retirement program for the State University
2728 System.—

2729 (3) ELECTION OF OPTIONAL PROGRAM.—

2730 (g) An eligible employee who is a member of the Florida
2731 Retirement System at the time of election to participate in the
2732 optional retirement program shall retain all retirement service
2733 credit earned under the Florida Retirement System, at the rate
2734 earned. ~~No~~ Additional service credit in the Florida Retirement
2735 System may not ~~shall~~ be earned while the employee participates
2736 in the optional program, and ~~nor shall~~ the employee is not ~~be~~
2737 eligible for disability retirement under the Florida Retirement
2738 System. An eligible employee may transfer from the Florida



328098

2739 Retirement System to his or her accounts under the State
2740 University System Optional Retirement Program a sum representing
2741 the present value of the employee's accumulated benefit
2742 obligation under ~~the defined benefit program of the~~ pension plan
2743 ~~Florida Retirement System~~ for any service credit accrued from
2744 the employee's first eligible transfer date to the optional
2745 retirement program through the actual date of such transfer, if
2746 such service credit was earned ~~in the period~~ from July 1, 1984,
2747 through December 31, 1992. The present value of the employee's
2748 accumulated benefit obligation shall be calculated as described
2749 in s. 121.4501(3)~~(c)~~2. Upon ~~such~~ transfer, all ~~such~~ service
2750 credit ~~previously~~ earned under the ~~defined benefit program of~~
2751 ~~the~~ pension plan ~~Florida Retirement System~~ during this period is
2752 ~~shall be~~ nullified for purposes of entitlement to a future
2753 benefit under the pension plan ~~defined benefit program of the~~
2754 ~~Florida Retirement System~~.

2755 (i) Effective January 1, 2008, through December 31, 2008,
2756 except for an employee who is a mandatory participant of the
2757 State University System Optional Retirement Program, an employee
2758 who has elected to participate in the State University System
2759 Optional Retirement Program shall have one opportunity, at the
2760 employee's discretion, ~~to choose~~ to transfer from this program
2761 to the ~~defined benefit program of the~~ Florida Retirement System
2762 Pension Plan or to the investment plan ~~Public Employee Optional~~
2763 ~~Retirement Program~~, subject to the terms of the applicable
2764 contracts of the State University System Optional Retirement
2765 Program.

2766 1. If the employee chooses to move to the investment plan
2767 ~~Public Employee Optional Retirement Program~~, any contributions,



328098

2768 interest, and earnings creditable to the employee under the
2769 State University System Optional Retirement Program must ~~shall~~
2770 be retained by the employee in the State University System
2771 Optional Retirement Program, and the applicable provisions of s.
2772 121.4501(4) shall govern the election.

2773 2. If the employee chooses to move to the pension plan
2774 ~~defined benefit program~~ of the Florida Retirement System, the
2775 employee shall receive service credit equal to his or her years
2776 of service under the State University System Optional Retirement
2777 Program.

2778 a. The cost for such credit must be in ~~shall be~~ an amount
2779 representing the actuarial accrued liability for the affected
2780 period of service. The cost must ~~shall~~ be calculated using the
2781 discount rate and other relevant actuarial assumptions that were
2782 used to value the Florida Retirement System Pension ~~defined~~
2783 ~~benefit~~ Plan liabilities in the most recent actuarial valuation.
2784 The calculation must ~~shall~~ include any service already
2785 maintained under the pension ~~defined benefit~~ plan in addition to
2786 the years under the State University System Optional Retirement
2787 Program. The actuarial accrued liability of any service already
2788 maintained under the pension ~~defined benefit~~ plan must ~~shall~~ be
2789 applied as a credit to total cost resulting from the
2790 calculation. The division must ~~shall~~ ensure that the transfer
2791 sum is prepared using a formula and methodology certified by an
2792 enrolled actuary.

2793 b. The employee must transfer from his or her State
2794 University System Optional Retirement Program account, and from
2795 other employee moneys as necessary, a sum representing the
2796 actuarial accrued liability immediately following the time of



328098

2797 such movement, determined assuming that attained service equals
2798 the sum of service in the pension plan ~~defined benefit program~~
2799 and service in the State University System Optional Retirement
2800 Program.

2801 (4) CONTRIBUTIONS.—

2802 (a) 1. Through June 30, 2001, each employer shall contribute
2803 on behalf of each member of ~~participant in~~ the optional
2804 retirement program an amount equal to the normal cost portion of
2805 the employer retirement contribution which would be required if
2806 the employee ~~participant~~ were a regular member of the Florida
2807 Retirement System Pension Plan ~~System defined benefit program~~,
2808 plus the portion of the contribution rate required in s.
2809 112.363(8) that would otherwise be assigned to the Retiree
2810 Health Insurance Subsidy Trust Fund.

2811 2. Effective July 1, 2001, through June 30, 2011, each
2812 employer shall contribute on behalf of each member of
2813 ~~participant in~~ the optional retirement program an amount equal
2814 to 10.43 percent of the employee's ~~participant's~~ gross monthly
2815 compensation.

2816 3. Effective July 1, 2011, each member of the optional
2817 retirement program shall contribute an amount equal to the
2818 employee contribution required in s. 121.71(3). The employer
2819 shall contribute on behalf of each such member an amount equal
2820 to the difference between 10.43 percent of the employee's gross
2821 monthly compensation and the amount equal to the employee's
2822 required contribution based on the employee's gross monthly
2823 compensation.

2824 4. ~~The department shall deduct an amount approved by the~~
2825 ~~Legislature to provide for the administration of this program.~~



328098

2826 The payment of the contributions, including contributions by the
2827 employee, to the optional program which is required by this
2828 paragraph for each participant shall be made by the employer to
2829 the department, which shall forward the contributions to the
2830 designated company or companies contracting for payment of
2831 benefits for members of the participant under the program.
2832 However, such contributions paid on behalf of an employee
2833 described in paragraph (3)(c) may shall not be forwarded to a
2834 company and do shall not begin to accrue interest until the
2835 employee has executed a contract and notified the department.
2836 The department shall deduct an amount from the contributions to
2837 provide for the administration of this program.

2838 (b) Each employer shall contribute on behalf of each member
2839 of participant in the optional retirement program an amount
2840 equal to the unfunded actuarial accrued liability portion of the
2841 employer contribution which would be required for members of the
2842 Florida Retirement System. This contribution shall be paid to
2843 the department for transfer to the Florida Retirement System
2844 Trust Fund.

2845 (c) An Optional Retirement Program Trust Fund shall be
2846 established in the State Treasury and administered by the
2847 department to make payments to the provider companies on behalf
2848 of ~~the~~ optional retirement program members participants, and to
2849 transfer the unfunded liability portion of the state optional
2850 retirement program contributions to the Florida Retirement
2851 System Trust Fund.

2852 (d) Contributions required for social security by each
2853 employer and each employee participant, in the amount required
2854 for social security coverage as now or hereafter may be provided



328098

2855 by the federal Social Security Act, shall be maintained for each
2856 member of participant in the optional retirement program and are
2857 ~~shall be~~ in addition to the retirement contributions specified
2858 in this subsection.

2859 (e) Each member of participant in the optional retirement
2860 program who has executed a contract may contribute by way of
2861 salary reduction or deduction a percentage amount of the
2862 employee's participant's gross compensation not to exceed the
2863 percentage amount contributed by the employer to the optional
2864 program, but ~~in no case may~~ such contribution may not exceed
2865 federal limitations. Payment of the employee's participant's
2866 contributions shall be made by the financial officer of the
2867 employer to the division which shall forward the contributions
2868 to the designated company or companies contracting for payment
2869 of benefits for members of the participant under the program. A
2870 member participant may not make, through salary reduction, any
2871 voluntary employee contributions to any other plan under s.
2872 403(b) of the Internal Revenue Code, with the exception of a
2873 custodial account under s. 403(b)(7) of the Internal Revenue
2874 Code, until he or she has made an employee contribution to his
2875 or her optional program equal to the employer contribution. An
2876 employee ~~A participant~~ is responsible for monitoring his or her
2877 individual tax-deferred income to ensure he or she does not
2878 exceed the maximum deferral amounts permitted under the Internal
2879 Revenue Code.

2880 (f) The Optional Retirement Trust Fund may accept for
2881 deposit into member participant contracts contributions in the
2882 form of rollovers or direct trustee-to-trustee transfers by or
2883 on behalf of members participants who are reasonably determined



328098

2884 by the department to be eligible for rollover or transfer to the
2885 optional retirement program pursuant to the Internal Revenue
2886 Code, if such contributions are made in accordance with rules
2887 adopted by the department. Such contributions shall be accounted
2888 for in accordance with any applicable requirements of the
2889 Internal Revenue Code and department rules ~~of the department~~.

2890 (g) Effective July 1, 2008, for purposes of paragraph (a)
2891 and notwithstanding s. 121.021(22)(b)1., the term "employee's
2892 ~~participant's~~ gross monthly compensation" includes salary
2893 payments made to eligible clinical faculty from a state
2894 university using funds provided by a faculty practice plan
2895 authorized by the Board of Governors of the State University
2896 System if:

2897 1. There is no ~~not any~~ employer contribution from the state
2898 university to any other retirement program with respect to such
2899 salary payments; and

2900 2. The employer contribution on behalf of a member of the
2901 ~~participant in~~ the optional retirement program with respect to
2902 such salary payments is made using funds provided by the faculty
2903 practice plan.

2904 (5) BENEFITS.—

2905 (a) Benefits are payable under the optional retirement
2906 program only to vested members participating ~~participants~~ in the
2907 program, or their beneficiaries as designated by the member
2908 ~~participant~~ in the contract with a provider company, and such
2909 benefits shall be paid only by the designated company in
2910 accordance with s. 403(b) of the Internal Revenue Code and the
2911 terms of the annuity contract or contracts applicable to the
2912 member ~~participant~~. Benefits accrue in individual accounts that



328098

2913 are member-directed ~~participant-directed~~, portable, and funded
2914 by employer and employee contributions and the earnings thereon.
2915 The member ~~participant~~ must be terminated for 3 calendar months
2916 from all employment relationships with all Florida Retirement
2917 System employers, ~~as provided in s. 121.021(39)~~, to begin
2918 receiving the ~~employer-funded~~ benefit. Benefits funded by
2919 employer and employee contributions are payable in accordance
2920 with the following terms and conditions:

2921 1. Benefits shall be paid only to a participating member
2922 ~~participant~~, to his or her beneficiaries, or to his or her
2923 estate, as designated by the member ~~participant~~.

2924 2. Benefits shall be paid by the provider company or
2925 companies in accordance with the law, the provisions of the
2926 contract, and any applicable department rule or policy.

2927 3. In the event of a member's ~~participant's~~ death, moneys
2928 accumulated by, or on behalf of, the member ~~participant~~, less
2929 withholding taxes remitted to the Internal Revenue Service, if
2930 any, shall be distributed to the member's ~~participant's~~
2931 designated beneficiary or beneficiaries, or to the member's
2932 ~~participant's~~ estate, as if the member ~~participant~~ retired on
2933 the date of death, as provided in paragraph (d) ~~(e)~~. No other
2934 death benefits are available to survivors of members
2935 ~~participants~~ under the optional retirement program except for
2936 such benefits, or coverage for such benefits, as are separately
2937 afforded by the employer, at the employer's discretion.

2938 (b) Benefits, including employee contributions, are not
2939 payable for employee hardships, unforeseeable emergencies,
2940 loans, medical expenses, educational expenses, purchase of a
2941 principal residence, payments necessary to prevent eviction or



328098

2942 foreclosure on an employee's principal residence, or any other
2943 reason before termination from all employment relationships with
2944 participating employers for 3 calendar months.

2945 (c)(b) Upon receipt by the provider company of a properly
2946 executed application for distribution of benefits, the total
2947 accumulated benefit is shall be payable to the participating
2948 member participant, as:

- 2949 1. A lump-sum distribution to the member participant;
- 2950 2. A lump-sum direct rollover distribution whereby all
2951 accrued benefits, plus interest and investment earnings, are
2952 paid from the member's participant's account directly to an
2953 eligible retirement plan, as defined in s. 402(c)(8)(B) of the
2954 Internal Revenue Code, on behalf of the member participant;
- 2955 3. Periodic distributions;
- 2956 4. A partial lump-sum payment whereby a portion of the
2957 accrued benefit is paid to the member participant and the
2958 remaining amount is transferred to an eligible retirement plan,
2959 as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on
2960 behalf of the member participant; or
- 2961 5. Such other distribution options as are provided ~~for~~ in
2962 the member's participant's optional retirement program contract.

2963 (d)(e) Survivor benefits are shall be payable as:

- 2964 1. A lump-sum distribution payable to the beneficiaries or
2965 to the deceased member's participant's estate;
- 2966 2. An eligible rollover distribution on behalf of the
2967 surviving spouse of a deceased member participant, whereby all
2968 accrued benefits, plus interest and investment earnings, are
2969 paid from the deceased member's participant's account directly
2970 to an eligible retirement plan, as described in s. 402(c)(8)(B)



328098

2971 of the Internal Revenue Code, on behalf of the surviving spouse;

2972 3. Such other distribution options as are provided ~~for~~ in
2973 the member's participant's optional retirement program contract;
2974 or

2975 4. A partial lump-sum payment whereby a portion of the
2976 accrued benefit is paid to the deceased member's participant's
2977 surviving spouse or other designated beneficiaries, less
2978 withholding taxes remitted to the Internal Revenue Service, if
2979 any, and the remaining amount is transferred directly to an
2980 eligible retirement plan, as described in s. 402(c)(8)(B) of the
2981 Internal Revenue Code, on behalf of the surviving spouse. The
2982 proportions must be specified by the member participant or the
2983 surviving beneficiary.

2984
2985 This paragraph does not abrogate other applicable provisions of
2986 state or federal law providing payment of death benefits.

2987 (e) ~~(d)~~ The benefits payable to any person under the
2988 optional retirement program, and any contribution accumulated
2989 under such program, are shall not ~~be~~ subject to assignment,
2990 execution, or attachment or to any legal process ~~whatsoever~~.

2991 (f) ~~(e)~~ A participating member participant who chooses to
2992 receive his or her benefits must be terminated for 3 calendar
2993 months to be eligible to receive benefits funded by employer and
2994 employee contributions. The member upon termination as defined
2995 in s. 121.021 must notify the provider company of the date he or
2996 she wishes benefits funded by required employer and employee
2997 contributions to begin and must be terminated as defined in s.
2998 121.021 after the initial benefit payment or distribution is
2999 received. Benefits may be deferred until the member participant



328098

3000 chooses to make such application.

3001 (g)~~(f)~~ Benefits funded by the participating member's
3002 voluntary participant's personal contributions may be paid out
3003 at any time and in any form within the limits provided in the
3004 contract between the member participant and the his or her
3005 provider company. The member participant shall notify the
3006 provider company regarding the date and provisions under which
3007 he or she wants to receive the employee-funded portion of the
3008 plan.

3009 (h)~~(g)~~ For purposes of this section, "retiree" means a
3010 former participating member participant of the optional
3011 retirement program who has terminated employment and has taken a
3012 distribution as provided in this subsection, except for a
3013 mandatory distribution of a de minimis account authorized by the
3014 department.

3015 Section 25. Section 121.355, Florida Statutes, is amended
3016 to read:

3017 121.355 Community College Optional Retirement Program and
3018 State University System Optional Retirement Program member
3019 transfer.—Effective January 1, 2009, through December 31, 2009,
3020 an employee who is a former member of participant in the
3021 Community College Optional Retirement Program or the State
3022 University System Optional Retirement Program and present
3023 mandatory member of participant in the Florida Retirement System
3024 Pension System defined benefit Plan may receive service credit
3025 equal to his or her years of service under the Community College
3026 Optional Retirement Program or the State University System
3027 Optional Retirement Program under the following conditions:

3028 (1) The cost for such credit must represent ~~shall be an~~



328098

3029 ~~amount representing~~ the actuarial accrued liability for the
3030 affected period of service. The cost shall be calculated using
3031 the discount rate and other relevant actuarial assumptions that
3032 were used to value the Florida Retirement System Pension System
3033 ~~defined benefit~~ Plan liabilities in the most recent actuarial
3034 valuation. The calculation must ~~shall~~ include any service
3035 already maintained under the pension ~~defined benefit~~ plan in
3036 addition to the years under the Community College Optional
3037 Retirement Program or the State University System Optional
3038 Retirement Program. The actuarial accrued liability of any
3039 service already maintained under the pension ~~defined benefit~~
3040 plan shall be applied as a credit to total cost resulting from
3041 the calculation. The division shall ensure that the transfer sum
3042 is prepared using a formula and methodology certified by an
3043 enrolled actuary.

3044 (2) The employee must transfer from his or her Community
3045 College Optional Retirement Program account or State University
3046 System Optional Retirement Program account, subject to the terms
3047 of the applicable optional retirement program contract, and from
3048 other employee moneys as necessary, a sum representing the
3049 actuarial accrued liability immediately following the time of
3050 such movement, determined assuming that attained service equals
3051 the sum of service in the pension plan ~~defined benefit program~~
3052 and service in the Community College Optional Retirement Program
3053 or State University System Optional Retirement Program.

3054 (3) The employee may not receive service credit for a
3055 period of mandatory participation in the State University
3056 Optional Retirement Program or for a period for which a
3057 distribution was received from the Community College Optional



328098

3058 Retirement Program or State University System Optional
3059 Retirement Program.

3060 Section 26. Section 121.4501, Florida Statutes, is amended
3061 to read:

3062 121.4501 Florida Retirement System Investment Plan ~~Public~~
3063 ~~Employee Optional Retirement Program.~~-

3064 (1) The Trustees of the State Board of Administration shall
3065 establish a ~~an optional~~ defined contribution ~~retirement~~ program
3066 called the "Florida Retirement System Investment Plan" or
3067 "investment plan" for members of the Florida Retirement System
3068 under which retirement benefits will be provided for eligible
3069 employees who elect to participate in the program. The
3070 retirement benefits ~~to be provided for or on behalf of~~
3071 ~~participants in such optional retirement program~~ shall be
3072 provided through member-directed ~~employee-directed~~ investments,
3073 in accordance with s. 401(a) of the Internal Revenue Code and
3074 ~~its~~ related regulations. The employer and employee ~~employers~~
3075 shall make contributions ~~contribute~~, as provided in this section
3076 and ~~7~~ ss. 121.571~~7~~ and 121.71~~1~~, to the Florida Retirement System
3077 Investment Plan ~~Public Employee Optional Retirement Program~~
3078 Trust Fund toward the funding of ~~such optional~~ benefits.

3079 (2) DEFINITIONS.-As used in this part, the term:

3080 (a) "Approved provider" or "provider" means a private
3081 sector company that is selected and approved by the state board
3082 to offer one or more investment products or services to the
3083 investment plan ~~optional retirement program~~. The term includes a
3084 bundled provider that offers members ~~participants~~ a range of
3085 individually allocated or unallocated investment products and
3086 may offer a range of administrative and customer services, which



328098

3087 may include accounting and administration of individual member
3088 ~~participant~~ benefits and contributions; individual member
3089 ~~participant~~ recordkeeping; asset purchase, control, and
3090 safekeeping; direct execution of the member's ~~participant's~~
3091 instructions as to asset and contribution allocation;
3092 calculation of daily net asset values; direct access to member
3093 ~~participant~~ account information; periodic reporting to members
3094 ~~participants~~, at least quarterly, on account balances and
3095 transactions; guidance, advice, and allocation services directly
3096 relating to the provider's own investment options or products,
3097 but only if the bundled provider complies with the standard of
3098 care of s. 404(a)(1)(A-B) of the Employee Retirement Income
3099 Security Act of 1974 (ERISA), and if providing such guidance,
3100 advice, or allocation services does not constitute a prohibited
3101 transaction under s. 4975(c)(1) of the Internal Revenue Code or
3102 s. 406 of ERISA, notwithstanding that such prohibited
3103 transaction provisions do not apply to the ~~optional~~ retirement
3104 program; a broad array of distribution options; asset
3105 allocation; and retirement counseling and education. Private
3106 sector companies include investment management companies,
3107 insurance companies, depositories, and mutual fund companies.

3108 (b) "Average monthly compensation" means one-twelfth of
3109 average final compensation as defined in s. 121.021.

3110 (c) "Covered employment" means employment in a regularly
3111 established position as defined in s. 121.021.

3112 ~~(d) "Defined benefit program" means the defined benefit~~
3113 ~~program of the Florida Retirement System administered under part~~
3114 ~~I of this chapter.~~

3115 ~~(e) "Division" means the Division of Retirement within the~~



328098

3116 ~~department.~~

3117 (d) ~~(f)~~ "Electronic means" means by telephone, if the
3118 required information is received on a recorded line, or through
3119 Internet access, if the required information is captured online.

3120 (e) ~~(g)~~ "Eligible employee" means an officer or employee, as
3121 defined in s. 121.021, who:

3122 1. Is a member of, or is eligible for membership in, the
3123 Florida Retirement System, including any renewed member of the
3124 Florida Retirement System initially enrolled before July 1,
3125 2010; or

3126 2. Participates in, or is eligible to participate in, the
3127 Senior Management Service Optional Annuity Program as
3128 established under s. 121.055(6), the State Community College
3129 System Optional Retirement Program as established under s.
3130 121.051(2)(c), or the State University System Optional
3131 Retirement Program established under s. 121.35.

3132
3133 The term does not include any member participating in the
3134 Deferred Retirement Option Program established under s.
3135 121.091(13), a retiree of a state-administered retirement system
3136 initially reemployed on or after July 1, 2010, or a mandatory
3137 participant of the State University System Optional Retirement
3138 Program established under s. 121.35.

3139 (f) ~~(h)~~ "Employer" means an employer, as defined in s.
3140 121.021, of an eligible employee.

3141 (g) ~~(i)~~ "Florida Retirement System Investment Plan" or
3142 "investment plan" ~~"Optional retirement program" or "optional~~
3143 ~~program"~~ means the defined contribution program ~~Public Employee~~
3144 ~~Optional Retirement Program~~ established under this part.



328098

3145 (h) "Florida Retirement System Pension Plan" or "pension
3146 plan" means the defined benefit program of the Florida
3147 Retirement System administered under part I of this chapter.

3148 (i) ~~(j)~~ "Member" or "employee" "Participant" means an
3149 eligible employee who enrolls in the investment plan ~~optional~~
3150 ~~program~~ as provided in subsection (4), ~~or~~ a terminated Deferred
3151 Retirement Option Program ~~member participant~~ as described in
3152 subsection (21), or a beneficiary or alternate payee of a member
3153 or employee.

3154 (j) "Member contributions" or "employee contributions"
3155 means the sum of all amounts deducted from the salary of a
3156 member by his or her employer in accordance with s. 121.71(3)
3157 and credited to his or her individual account in the investment
3158 plan, plus any earnings on such amounts and any contributions
3159 specified in paragraph (5) (e).

3160 (k) "Retiree" means a former ~~member participant~~ of the
3161 investment plan ~~optional retirement program~~ who has terminated
3162 employment and ~~has~~ taken a distribution of vested employee or
3163 employer contributions as provided in s. 121.591, except for a
3164 mandatory distribution of a de minimis account authorized by the
3165 state board or a minimum required distribution provided by s.
3166 401(a) (9) of the Internal Revenue Code.

3167 (l) "Vested" or "vesting" means the guarantee that a member
3168 ~~participant~~ is eligible to receive a retirement benefit upon
3169 completion of the required years of service under the investment
3170 plan ~~optional retirement program~~.

3171 (3) ~~ELIGIBILITY; RETIREMENT SERVICE CREDIT; TRANSFER OF~~
3172 BENEFITS.—

3173 ~~(a) Participation in the Public Employee Optional~~



328098

3174 ~~Retirement Program is limited to eligible employees.~~
3175 ~~Participation in the optional retirement program is in lieu of~~
3176 ~~participation in the defined benefit program of the Florida~~
3177 ~~Retirement System.~~

3178 (a) ~~(b)~~ An eligible employee who is employed in a regularly
3179 established position by a state employer on June 1, 2002; by a
3180 district school board employer on September 1, 2002; or by a
3181 local employer on December 1, 2002, and who is a member of the
3182 pension plan ~~defined benefit retirement program of the Florida~~
3183 ~~Retirement System~~ at the time of his or her election to
3184 participate in the investment plan ~~Public Employee Optional~~
3185 ~~Retirement Program~~ shall retain all retirement service credit
3186 earned under the pension plan ~~defined benefit retirement program~~
3187 ~~of the Florida Retirement System~~ as credited under the system
3188 and is ~~shall be~~ entitled to a deferred benefit upon termination,
3189 ~~if eligible under the system.~~ However, election to enroll
3190 participate in the investment plan ~~Public Employee Optional~~
3191 ~~Retirement Program~~ terminates the active membership of the
3192 employee in the pension plan ~~defined benefit program of the~~
3193 ~~Florida Retirement System~~, and the service of a member
3194 ~~participant~~ in the investment plan ~~is Public Employee Optional~~
3195 ~~Retirement Program~~ shall not be creditable under the pension
3196 plan ~~defined benefit retirement program of the Florida~~
3197 ~~Retirement System~~ for purposes of benefit accrual but is
3198 creditable ~~shall be credited~~ for purposes of vesting.

3199 (b) ~~(c)~~1. Notwithstanding paragraph (a), ~~an (b)~~, each
3200 eligible employee who elects to participate in the investment
3201 plan ~~Public Employee Optional Retirement Program~~ and establishes
3202 one or more individual member ~~participant~~ accounts under the



328098

3203 ~~optional program~~ may elect to transfer to the investment plan
3204 ~~optional program~~ a sum representing the present value of the
3205 employee's accumulated benefit obligation under the pension plan
3206 ~~defined benefit retirement program of the Florida Retirement~~
3207 ~~System~~. Upon ~~such~~ transfer, all service credit ~~previously~~ earned
3208 under the pension plan ~~defined benefit program of the Florida~~
3209 ~~Retirement System shall be~~ nullified for purposes of entitlement
3210 to a future benefit under the pension plan ~~defined benefit~~
3211 ~~program of the Florida Retirement System~~. A member may not
3212 transfer ~~participant is precluded from transferring the~~
3213 accumulated benefit obligation balance from the pension plan
3214 after the time ~~defined benefit program upon the expiration of~~
3215 the period for enrolling ~~afforded to enroll~~ in the investment
3216 plan has expired ~~optional program~~.

3217 1.2. For purposes of this subsection, the present value of
3218 the member's accumulated benefit obligation is based upon the
3219 member's estimated creditable service and estimated average
3220 final compensation under the pension plan ~~defined benefit~~
3221 ~~program~~, subject to recomputation under subparagraph 2. 3. For
3222 state employees ~~enrolling under subparagraph (4)(a)1.~~, initial
3223 estimates shall ~~will~~ be based upon creditable service and
3224 average final compensation as of midnight on June 30, 2002; for
3225 district school board employees ~~enrolling under subparagraph~~
3226 ~~(4)(b)1.~~, initial estimates shall ~~will~~ be based upon creditable
3227 service and average final compensation as of midnight on
3228 September 30, 2002; and for local government employees ~~enrolling~~
3229 ~~under subparagraph (4)(c)1.~~, initial estimates shall ~~will~~ be
3230 based upon creditable service and average final compensation as
3231 of midnight on December 31, 2002. The dates ~~respectively~~



328098

3232 specified are above ~~shall be construed as~~ the "estimate date"
3233 for these employees. The actuarial present value of the
3234 employee's accumulated benefit obligation shall be based on the
3235 following:

3236 a. The discount rate and other relevant actuarial
3237 assumptions used to value the Florida Retirement System Trust
3238 Fund at the time the amount to be transferred is determined,
3239 consistent with the factors provided in sub-subparagraphs b. and
3240 c.

3241 b. A benefit commencement age, based on the member's
3242 estimated creditable service as of the estimate date.

3243 c. Except as provided under sub-subparagraph d., for a
3244 member initially enrolled:

3245 (I) Before July 1, 2011, the benefit commencement age is
3246 shall be the younger of the following, but may shall not be
3247 younger than the member's age as of the estimate date:

3248 (A) ~~(I)~~ Age 62; or

3249 (B) ~~(II)~~ The age the member would attain if the member
3250 completed 30 years of service with an employer, assuming the
3251 member worked continuously from the estimate date, and
3252 disregarding any vesting requirement that would otherwise apply
3253 under the pension plan defined benefit program of the Florida
3254 Retirement System.

3255 (II) On or after July 1, 2011, the benefit commencement age
3256 is the younger of the following, but may not be younger than the
3257 member's age as of the estimate date:

3258 (A) Age 65; or

3259 (B) The age the member would attain if the member completed
3260 33 years of service with an employer, assuming the member worked



328098

3261 continuously from the estimate date, and disregarding any
3262 vesting requirement that would otherwise apply under the pension
3263 plan.

3264 ~~d.e.~~ For members of the Special Risk Class and for members
3265 of the Special Risk Administrative Support Class entitled to
3266 retain the special risk normal retirement date:

3267 (I) Initially enrolled before July 1, 2011, the benefit
3268 commencement age is shall be the younger of the following, but
3269 may shall not be younger than the member's age as of the
3270 estimate date:

3271 (A) ~~(I)~~ Age 55; or

3272 (B) ~~(II)~~ The age the member would attain if the member
3273 completed 25 years of service with an employer, assuming the
3274 member worked continuously from the estimate date, and
3275 disregarding any vesting requirement that would otherwise apply
3276 under the pension plan defined benefit program of the Florida
3277 Retirement System.

3278 (II) Initially enrolled on or after July 1, 2011, the
3279 benefit commencement age is the younger of the following, but
3280 may not be younger than the member's age as of the estimate
3281 date:

3282 (A) Age 60; or

3283 (B) The age the member would attain if the member completed
3284 30 years of service with an employer, assuming the member worked
3285 continuously from the estimate date, and disregarding any
3286 vesting requirement that would otherwise apply under the pension
3287 plan.

3288 ~~e.d.~~ The calculation must shall disregard vesting
3289 requirements and early retirement reduction factors that would



328098

3290 otherwise apply under the pension plan ~~defined benefit~~
3291 ~~retirement program~~.

3292 ~~2.3.~~ For each member ~~participant~~ who elects to transfer
3293 moneys from the pension plan ~~defined benefit program~~ to his or
3294 her account in the investment plan ~~optional program~~, the
3295 division shall recompute the amount transferred under
3296 subparagraph 1. ~~within 2.~~ ~~not later than~~ 60 days after the
3297 actual transfer of funds based upon the member's ~~participant's~~
3298 actual creditable service and actual final average compensation
3299 as of the initial date of participation in the investment plan
3300 ~~optional program~~. If the recomputed amount differs from the
3301 amount transferred ~~under subparagraph 2.~~ by \$10 or more, the
3302 division shall:

3303 a. Transfer, or cause to be transferred, from the Florida
3304 Retirement System Trust Fund to the member's ~~participant's~~
3305 account ~~in the optional program~~ the excess, if any, of the
3306 recomputed amount over the previously transferred amount
3307 together with interest from the initial date of transfer to the
3308 date of transfer under this subparagraph, based upon the
3309 effective annual interest equal to the assumed return on the
3310 actuarial investment which was used in the most recent actuarial
3311 valuation of the system, compounded annually.

3312 b. Transfer, or cause to be transferred, from the member's
3313 ~~participant's~~ account to the Florida Retirement System Trust
3314 Fund the excess, if any, of the previously transferred amount
3315 over the recomputed amount, together with interest from the
3316 initial date of transfer to the date of transfer under this
3317 subparagraph, based upon 6 percent effective annual interest,
3318 compounded annually, pro rata based on the member's



328098

3319 ~~participant's~~ allocation plan.

3320 3. If contribution adjustments are made as a result of
3321 employer errors or corrections, including plan corrections,
3322 following recomputation of the amount transferred under
3323 subparagraph 1., the member is entitled to the additional
3324 contributions or is responsible for returning any excess
3325 contributions resulting from the correction. However, any return
3326 of such erroneous excess pretax contribution by the plan must be
3327 made within the period allowed by the Internal Revenue Service.
3328 The present value of the member's accumulated benefit obligation
3329 shall not be recalculated.

3330 4. As directed by the member participant, the state board
3331 shall transfer or cause to be transferred the appropriate
3332 amounts to the designated accounts within. ~~The board shall~~
3333 ~~establish transfer procedures by rule, but the actual transfer~~
3334 ~~shall not be later than~~ 30 days after the effective date of the
3335 member's participation in the investment plan optional program
3336 unless the major financial markets for securities available for
3337 a transfer are seriously disrupted by an unforeseen event that
3338 ~~which also~~ causes the suspension of trading on any national
3339 securities exchange in the country where the securities were
3340 issued. In that event, the ~~such~~ 30-day period ~~of time~~ may be
3341 extended by a resolution of the state board ~~trustees~~. Transfers
3342 are not commissionable or subject to other fees and may be in
3343 the form of securities or cash, as determined by the state
3344 board. Such securities are ~~shall be~~ valued as of the date of
3345 receipt in the member's ~~participant's~~ account.

3346 5. If the state board or the division receives notification
3347 from the United States Internal Revenue Service that this



328098

3348 paragraph or any portion of this paragraph will cause the
3349 retirement system, or a portion thereof, to be disqualified for
3350 tax purposes under the Internal Revenue Code, ~~then~~ the portion
3351 that will cause the disqualification does not apply. Upon such
3352 notice, the state board and the division shall notify the
3353 presiding officers of the Legislature.

3354 (4) PARTICIPATION; ENROLLMENT.—

3355 (a)1. With respect to an eligible employee who is employed
3356 in a regularly established position on June 1, 2002, by a state
3357 employer:

3358 a. Any such employee may elect to participate in the
3359 investment plan ~~Public Employee Optional Retirement Program~~ in
3360 lieu of retaining his or her membership in the pension plan
3361 ~~defined benefit program of the Florida Retirement System~~. The
3362 election must be made in writing or by electronic means and must
3363 be filed with the third-party administrator by August 31, 2002,
3364 or, in the case of an active employee who is on a leave of
3365 absence on April 1, 2002, by the last business day of the 5th
3366 month following the month the leave of absence concludes. This
3367 election is irrevocable, except as provided in paragraph (g)
3368 ~~(e)~~. Upon making such election, the employee shall be enrolled
3369 as a member participant of the investment plan ~~Public Employee~~
3370 ~~Optional Retirement Program~~, the employee's membership in the
3371 Florida Retirement System ~~is~~ shall be governed by the provisions
3372 of this part, and the employee's membership in the pension plan
3373 terminates ~~defined benefit program of the Florida Retirement~~
3374 ~~System shall terminate~~. The employee's enrollment in the
3375 investment plan ~~is~~ ~~Public Employee Optional Retirement Program~~
3376 ~~shall be~~ effective the first day of the month for which a full



328098

3377 month's employer contribution is made to the investment plan
3378 ~~optional program~~.

3379 b. Any such employee who fails to elect to participate in
3380 the investment plan ~~Public Employee Optional Retirement Program~~
3381 within the prescribed time period is deemed to have elected to
3382 retain membership in the pension plan ~~defined benefit program of~~
3383 ~~the Florida Retirement System~~, and the employee's option to
3384 elect to participate in the investment plan ~~optional program~~ is
3385 forfeited.

3386 2. With respect to employees who become eligible to
3387 participate in the investment plan ~~Public Employee Optional~~
3388 ~~Retirement Program~~ by reason of employment in a regularly
3389 established position with a state employer commencing after
3390 April 1, 2002:

3391 a. Any such employee shall, by default, be enrolled in the
3392 pension plan ~~defined benefit retirement program of the Florida~~
3393 ~~Retirement System~~ at the commencement of employment, and may, by
3394 the last business day of the 5th month following the employee's
3395 month of hire, elect to participate in the investment plan
3396 ~~Public Employee Optional Retirement Program~~. The employee's
3397 election must be made in writing or by electronic means and must
3398 be filed with the third-party administrator. The election to
3399 participate in the investment plan ~~optional program~~ is
3400 irrevocable, except as provided in paragraph (g) ~~(e)~~.

3401 b. If the employee files such election within the
3402 prescribed time period, enrollment in the investment plan is
3403 ~~optional program~~ shall be effective on the first day of
3404 employment. The ~~employer~~ retirement contributions paid through
3405 the month of the employee plan change shall be transferred to



328098

3406 the investment ~~optional~~ program, and, effective the first day of
3407 the next month, the employer and employee must ~~shall~~ pay the
3408 applicable contributions based on the employee membership class
3409 in the ~~optional~~ program.

3410 c. ~~An Any such~~ employee who fails to elect to participate
3411 in the investment plan ~~Public Employee Optional Retirement~~
3412 ~~Program~~ within the prescribed time period is deemed to have
3413 elected to retain membership in the pension plan ~~defined benefit~~
3414 ~~program of the Florida Retirement System~~, and the employee's
3415 option to elect to participate in the investment plan ~~optional~~
3416 ~~program~~ is forfeited.

3417 3. With respect to employees who become eligible to
3418 participate in the investment plan ~~Public Employee Optional~~
3419 ~~Retirement Program~~ pursuant to s. 121.051(2)(c)3. or s.
3420 121.35(3)(i), the any such employee may elect to participate in
3421 the investment plan ~~Public Employee Optional Retirement Program~~
3422 in lieu of retaining his or her membership ~~participation~~ in the
3423 State Community College System Optional Retirement Program or
3424 the State University System Optional Retirement Program. The
3425 election must be made in writing or by electronic means and must
3426 be filed with the third-party administrator. This election is
3427 irrevocable, except as provided in paragraph (g) ~~(e)~~. Upon
3428 making such election, the employee shall be enrolled as a member
3429 in participant ~~of the investment plan~~ ~~Public Employee Optional~~
3430 ~~Retirement Program~~, the employee's membership in the Florida
3431 Retirement System is ~~shall be~~ governed by the provisions of this
3432 part, and the employee's participation in the State Community
3433 College System Optional Retirement Program or the State
3434 University System Optional Retirement Program terminates ~~shall~~



328098

3435 ~~terminate.~~ The employee's enrollment in the investment plan is
3436 ~~Public Employee Optional Retirement Program shall be~~ effective
3437 on the first day of the month for which a full month's employer
3438 and employee contribution is made to the investment plan
3439 ~~optional program.~~

3440 4. For purposes of this paragraph, "state employer" means
3441 any agency, board, branch, commission, community college,
3442 department, institution, institution of higher education, or
3443 water management district of the state, which participates in
3444 the Florida Retirement System for the benefit of certain
3445 employees.

3446 (b)1. With respect to an eligible employee who is employed
3447 in a regularly established position on September 1, 2002, by a
3448 district school board employer:

3449 a. Any such employee may elect to participate in the
3450 investment plan ~~Public Employee Optional Retirement Program~~ in
3451 lieu of retaining his or her membership in the pension plan
3452 ~~defined benefit program of the Florida Retirement System.~~ The
3453 election must be made in writing or by electronic means and must
3454 be filed with the third-party administrator by November 30, or,
3455 in the case of an active employee who is on a leave of absence
3456 on July 1, 2002, by the last business day of the 5th month
3457 following the month the leave of absence concludes. This
3458 election is irrevocable, except as provided in paragraph (g)
3459 ~~(e)~~. Upon making such election, the employee shall be enrolled
3460 as a member participant of the investment plan ~~Public Employee~~
3461 ~~Optional Retirement Program~~, the employee's membership in the
3462 Florida Retirement System is ~~shall be~~ governed by the provisions
3463 of this part, and the employee's membership in the pension plan



328098

3464 ~~terminates defined benefit program of the Florida Retirement~~
3465 ~~System shall terminate.~~ The employee's enrollment in the
3466 investment plan is Public Employee Optional Retirement Program
3467 ~~shall be~~ effective the first day of the month for which a full
3468 month's employer contribution is made to the investment optional
3469 program.

3470 b. Any such employee who fails to elect to participate in
3471 the investment plan Public Employee Optional Retirement Program
3472 within the prescribed time period is deemed to have elected to
3473 retain membership in the pension plan defined benefit program of
3474 ~~the Florida Retirement System~~, and the employee's option to
3475 elect to participate in the investment plan optional program is
3476 forfeited.

3477 2. With respect to employees who become eligible to
3478 participate in the investment plan Public Employee Optional
3479 ~~Retirement Program~~ by reason of employment in a regularly
3480 established position with a district school board employer
3481 commencing after July 1, 2002:

3482 a. Any such employee shall, by default, be enrolled in the
3483 pension plan defined benefit retirement program of the Florida
3484 ~~Retirement System~~ at the commencement of employment, and may, by
3485 the last business day of the 5th month following the employee's
3486 month of hire, elect to participate in the investment plan
3487 ~~Public Employee Optional Retirement Program~~. The employee's
3488 election must be made in writing or by electronic means and must
3489 be filed with the third-party administrator. The election to
3490 participate in the investment plan optional program is
3491 irrevocable, except as provided in paragraph (g) ~~(e)~~.

3492 b. If the employee files such election within the



328098

3493 prescribed time period, enrollment in the investment plan is
3494 ~~optional program shall be~~ effective on the first day of
3495 employment. The employer retirement contributions paid through
3496 the month of the employee plan change shall be transferred to
3497 the investment plan ~~optional program~~, and, effective the first
3498 day of the next month, the employer shall pay the applicable
3499 contributions based on the employee membership class in the
3500 investment plan ~~optional program~~.

3501 c. Any such employee who fails to elect to participate in
3502 the investment plan ~~Public Employee Optional Retirement Program~~
3503 within the prescribed time period is deemed to have elected to
3504 retain membership in the pension plan ~~defined benefit program of~~
3505 ~~the Florida Retirement System~~, and the employee's option to
3506 elect to participate in the investment plan ~~optional program~~ is
3507 forfeited.

3508 3. For purposes of this paragraph, "district school board
3509 employer" means any district school board that participates in
3510 the Florida Retirement System for the benefit of certain
3511 employees, or a charter school or charter technical career
3512 center that participates in the Florida Retirement System as
3513 provided in s. 121.051(2)(d).

3514 (c)1. With respect to an eligible employee who is employed
3515 in a regularly established position on December 1, 2002, by a
3516 local employer:

3517 a. Any such employee may elect to participate in the
3518 investment plan ~~Public Employee Optional Retirement Program~~ in
3519 lieu of retaining his or her membership in the pension plan
3520 ~~defined benefit program of the Florida Retirement System~~. The
3521 election must be made in writing or by electronic means and must



328098

3522 be filed with the third-party administrator by February 28,
3523 2003, or, in the case of an active employee who is on a leave of
3524 absence on October 1, 2002, by the last business day of the 5th
3525 month following the month the leave of absence concludes. This
3526 election is irrevocable, except as provided in paragraph (g)
3527 ~~(e)~~. Upon making such election, the employee shall be enrolled
3528 as a participant of the investment plan ~~Public Employee Optional~~
3529 ~~Retirement Program~~, the employee's membership in the Florida
3530 Retirement System is ~~shall be~~ governed by the provisions of this
3531 part, and the employee's membership in the pension plan
3532 terminates ~~defined benefit program of the Florida Retirement~~
3533 ~~System shall terminate~~. The employee's enrollment in the
3534 investment plan ~~is Public Employee Optional Retirement Program~~
3535 ~~shall be~~ effective the first day of the month for which a full
3536 month's employer contribution is made to the investment plan
3537 ~~optional program~~.

3538 b. Any such employee who fails to elect to participate in
3539 the investment plan ~~Public Employee Optional Retirement Program~~
3540 within the prescribed time period is deemed to have elected to
3541 retain membership in the pension plan ~~defined benefit program of~~
3542 ~~the Florida Retirement System~~, and the employee's option to
3543 elect to participate in the investment plan ~~optional program~~ is
3544 forfeited.

3545 2. With respect to employees who become eligible to
3546 participate in the investment plan ~~Public Employee Optional~~
3547 ~~Retirement Program~~ by reason of employment in a regularly
3548 established position with a local employer commencing after
3549 October 1, 2002:

3550 a. Any such employee shall, by default, be enrolled in the



328098

3551 ~~pension plan defined benefit retirement program of the Florida~~
3552 ~~Retirement System~~ at the commencement of employment, and may, by
3553 the last business day of the 5th month following the employee's
3554 month of hire, elect to participate in the investment plan
3555 ~~Public Employee Optional Retirement Program~~. The employee's
3556 election must be made in writing or by electronic means and must
3557 be filed with the third-party administrator. The election to
3558 participate in the investment plan ~~optional program~~ is
3559 irrevocable, except as provided in paragraph (g) ~~(e)~~.

3560 b. If the employee files such election within the
3561 prescribed time period, enrollment in the investment plan is
3562 ~~optional program~~ shall be effective on the first day of
3563 employment. The employer retirement contributions paid through
3564 the month of the employee plan change shall be transferred to
3565 the investment plan ~~optional program~~, and, effective the first
3566 day of the next month, the employer shall pay the applicable
3567 contributions based on the employee membership class in the
3568 investment plan ~~optional program~~.

3569 c. Any such employee who fails to elect to participate in
3570 the investment plan ~~Public Employee Optional Retirement Program~~
3571 within the prescribed time period is deemed to have elected to
3572 retain membership in the pension plan ~~defined benefit program of~~
3573 ~~the Florida Retirement System~~, and the employee's option to
3574 elect to participate in the investment plan ~~optional program~~ is
3575 forfeited.

3576 3. For purposes of this paragraph, "local employer" means
3577 any employer not included in paragraph (a) or paragraph (b).

3578 (d) Contributions available for self-direction by a member
3579 ~~participant~~ who has not selected one or more specific investment



328098

3580 products shall be allocated as prescribed by the state board.
3581 The third-party administrator shall notify the member ~~any such~~
3582 ~~participant~~ at least quarterly that the member ~~participant~~
3583 should take an affirmative action to make an asset allocation
3584 among the investment ~~optional program~~ products.

3585 (e) On or after July 1, 2011, a member of the pension plan
3586 who obtains a refund of employee contributions retains his or
3587 her prior plan choice upon return to employment in a regularly
3588 established position with a participating employer.

3589 (f) A member of the investment plan who takes a
3590 distribution of any contributions from his or her investment
3591 plan account is considered a retiree. A retiree who is initially
3592 reemployed on or after July 1, 2010, is not eligible for renewed
3593 membership.

3594 (g) ~~(e)~~ After the period during which an eligible employee
3595 had the choice to elect the pension plan ~~defined benefit program~~
3596 or the investment plan ~~optional retirement program~~, or the month
3597 following the receipt of the eligible employee's plan election,
3598 if sooner, the employee shall have one opportunity, at the
3599 employee's discretion, to choose to move from the pension plan
3600 ~~defined benefit program~~ to the investment plan ~~optional~~
3601 ~~retirement program~~ or from the investment plan ~~optional~~
3602 ~~retirement program~~ to the pension plan ~~defined benefit program~~.
3603 Eligible employees may elect to move between plans ~~Florida~~
3604 ~~Retirement System programs~~ only if they are earning service
3605 credit in an employer-employee relationship consistent with s.
3606 121.021(17)(b), excluding leaves of absence without pay.
3607 Effective July 1, 2005, such elections are effective on the
3608 first day of the month following the receipt of the election by



328098

3609 the third-party administrator and are not subject to the
3610 requirements regarding an employer-employee relationship or
3611 receipt of contributions for the eligible employee in the
3612 effective month, except when the election is received by the
3613 third-party administrator. This paragraph is contingent upon
3614 approval by ~~from~~ the Internal Revenue Service ~~for including the~~
3615 ~~choice described herein within the programs offered by the~~
3616 ~~Florida Retirement System.~~

3617 1. If the employee chooses to move to the investment plan
3618 ~~optional retirement program~~, the applicable provisions of
3619 subsection (3) ~~this section shall~~ govern the transfer.

3620 2. If the employee chooses to move to the pension plan
3621 ~~defined benefit program~~, the employee must transfer from his or
3622 her investment plan optional retirement program account, and
3623 from other employee moneys as necessary, a sum representing the
3624 present value of that employee's accumulated benefit obligation
3625 immediately following the time of such movement, determined
3626 assuming that attained service equals the sum of service in the
3627 pension plan defined benefit program and service in the
3628 investment plan optional retirement program. Benefit
3629 commencement occurs on the first date the employee is eligible
3630 for unreduced benefits, using the discount rate and other
3631 relevant actuarial assumptions that were used to value the
3632 pension defined benefit plan liabilities in the most recent
3633 actuarial valuation. For any employee who, at the time of the
3634 second election, already maintains an accrued benefit amount in
3635 the pension plan defined benefit program, the then-present value
3636 of the accrued benefit is ~~shall be~~ deemed part of the required
3637 transfer amount. The division must ~~shall~~ ensure that the



328098

3638 transfer sum is prepared using a formula and methodology
3639 certified by an enrolled actuary. A refund of any employee
3640 contributions or additional member payments made which exceed
3641 the employee contributions that would have accrued had the
3642 member remained in the pension plan and not transferred to the
3643 investment plan is not permitted.

3644 3. Notwithstanding subparagraph 2., an employee who chooses
3645 to move to the pension plan ~~defined benefit program~~ and who
3646 became eligible to participate in the investment plan ~~optional~~
3647 ~~retirement program~~ by reason of employment in a regularly
3648 established position with a state employer after June 1, 2002; a
3649 district school board employer after September 1, 2002; or a
3650 local employer after December 1, 2002, must transfer from his or
3651 her investment plan ~~optional retirement program~~ account, and
3652 from other employee moneys as necessary, a sum representing the
3653 employee's actuarial accrued liability. A refund of any employee
3654 contributions or additional participant payments made which
3655 exceed the employee contributions that would have accrued had
3656 the member remained in the pension plan and not transferred to
3657 the investment plan is not permitted.

3658 4. An employee's ability to transfer from the pension plan
3659 ~~defined benefit program~~ to the investment plan ~~optional~~
3660 ~~retirement program~~ pursuant to paragraphs (a)-(d), and the
3661 ability of a current employee to have an option to later
3662 transfer back into the pension plan ~~defined benefit program~~
3663 under subparagraph 2., shall be deemed a significant system
3664 amendment. Pursuant to s. 121.031(4), any resulting unfunded
3665 liability arising from actual original transfers from the
3666 pension plan ~~defined benefit program~~ to the investment plan



328098

3667 ~~optional program~~ must be amortized within 30 plan years as a
3668 separate unfunded actuarial base independent of the reserve
3669 stabilization mechanism defined in s. 121.031(3)(f). For the
3670 first 25 years, a direct amortization payment may not be
3671 calculated for this base. During this 25-year period, the
3672 separate base shall be used to offset the impact of employees
3673 exercising their second program election under this paragraph.
3674 ~~It is the intent of the Legislature that~~ The actuarial funded
3675 status of the pension plan will ~~defined benefit program~~ not be
3676 affected by such second program elections in any significant
3677 manner, after due recognition of the separate unfunded actuarial
3678 base. Following the initial 25-year period, any remaining
3679 balance of the original separate base shall be amortized over
3680 the remaining 5 years of the required 30-year amortization
3681 period.

3682 5. If the employee chooses to transfer from the investment
3683 plan ~~optional retirement program~~ to the pension plan ~~defined~~
3684 ~~benefit program~~ and retains an excess account balance in the
3685 investment plan ~~optional program~~ after satisfying the buy-in
3686 requirements under this paragraph, the excess may not be
3687 distributed until the member retires from the pension plan
3688 ~~defined benefit program~~. The excess account balance may be
3689 rolled over to the pension plan ~~defined benefit program~~ and used
3690 to purchase service credit or upgrade creditable service in the
3691 pension plan ~~that program~~.

3692 (5) CONTRIBUTIONS.—

3693 (a) The employee and ~~Each~~ employer shall make the required
3694 contributions to ~~contribute on behalf of each participant in the~~
3695 investment plan based on a percentage of the employee's gross



328098

3696 monthly compensation ~~Public Employee Optional Retirement~~
3697 ~~Program~~, as provided in part III of this chapter.

3698 (b) Employee contributions shall be paid as provided in s.
3699 121.71.

3700 (c) The state board, acting as plan fiduciary, must ~~shall~~
3701 ensure that all plan assets are held in a trust, pursuant to s.
3702 401 of the Internal Revenue Code. The fiduciary must ~~shall~~
3703 ensure that such ~~said~~ contributions are allocated as follows:

3704 1. The employer and employee contribution portion earmarked
3705 for member ~~participant~~ accounts shall be used to purchase
3706 interests in the appropriate investment vehicles ~~for the~~
3707 ~~accounts of each participant~~ as specified by the member
3708 ~~participant~~, or in accordance with paragraph (4) (d).

3709 2. The employer contribution portion earmarked for
3710 administrative and educational expenses shall be transferred to
3711 the Florida Retirement System Investment Plan Trust Fund ~~board~~.

3712 3. The employer contribution portion earmarked for
3713 disability benefits shall be transferred to the Florida
3714 Retirement System Trust Fund ~~department~~.

3715 (d) (b) The third-party administrator is ~~Employers are~~
3716 responsible for monitoring and notifying employers of the
3717 ~~participants regarding~~ maximum contribution levels allowed for
3718 members ~~permitted~~ under the Internal Revenue Code. If a member
3719 ~~participant~~ contributes to any other tax-deferred plan, the
3720 member ~~he or she~~ is responsible for ensuring that total
3721 contributions made to the investment plan ~~optional program~~ and
3722 to any other such plan do not exceed federally permitted
3723 maximums.

3724 (e) (c) The investment plan ~~Public Employee Optional~~



328098

3725 ~~Retirement Program~~ may accept for deposit into member
3726 ~~participant~~ accounts contributions in the form of rollovers or
3727 direct trustee-to-trustee transfers by or on behalf of members
3728 ~~participants~~, reasonably determined by the state board to be
3729 eligible for rollover or transfer to the investment plan
3730 ~~optional retirement program~~ pursuant to the Internal Revenue
3731 Code, if such contributions are made in accordance with rules ~~as~~
3732 ~~may be~~ adopted by the board. Such contributions must ~~shall~~ be
3733 accounted for in accordance with ~~any~~ applicable Internal Revenue
3734 Code requirements and rules of the state board.

3735 (6) VESTING REQUIREMENTS.—

3736 (a) A member is fully and immediately vested in all
3737 employee contributions paid to the investment plan as provided
3738 in s. 121.71, plus interest and earnings thereon and less
3739 investment fees and administrative charges.

3740 (b) ~~(a)~~1. With respect to employer contributions paid on
3741 behalf of the member participant to the investment plan ~~optional~~
3742 ~~retirement program~~, plus interest and earnings thereon and less
3743 investment fees and administrative charges, a member participant
3744 is vested after completing 1 work year with an employer,
3745 including any service while the member participant was a member
3746 of the pension plan ~~defined benefit program~~ or an optional
3747 retirement program authorized under s. 121.051(2)(c) or s.
3748 121.055(6).

3749 2. If the member participant terminates employment before
3750 satisfying the vesting requirements, the nonvested accumulation
3751 must be transferred from the member's participant's accounts to
3752 the state board for deposit and investment by the state board in
3753 its ~~the~~ suspense account created within the Florida Retirement



328098

3754 System Investment Plan ~~Public Employee Optional Retirement~~
3755 ~~Program~~ Trust Fund. If the terminated member participant is
3756 reemployed as an eligible employee within 5 years, the state
3757 board shall transfer to the member's ~~participant's~~ account any
3758 amount previously transferred from the member's ~~participant's~~
3759 accounts to the suspense account, plus actual earnings on such
3760 amount while in the suspense account.

3761 (c) ~~(b)~~1. With respect to amounts contributed by an employer
3762 and transferred from the pension plan ~~defined benefit program~~ to
3763 the investment plan ~~program~~, plus interest and earnings, and
3764 less investment fees and administrative charges, a member
3765 ~~participant~~ shall be vested in the amount transferred upon
3766 meeting the vesting ~~service~~ requirements for the member's
3767 ~~participant's~~ membership class as set forth in s. 121.021(45)
3768 ~~121.021(29)~~. The third-party administrator shall account for
3769 such amounts for each member participant. The division shall
3770 notify the member participant and the third-party administrator
3771 when the member participant has satisfied the vesting period for
3772 Florida Retirement System purposes.

3773 2. If the member participant terminates employment before
3774 satisfying the vesting requirements, the nonvested accumulation
3775 must be transferred from the member's ~~participant's~~ accounts to
3776 the state board for deposit and investment by the state board in
3777 the suspense account created within the Florida Retirement
3778 System Investment Plan ~~Public Employee Optional Retirement~~
3779 ~~Program~~ Trust Fund. If the terminated member participant is
3780 reemployed as an eligible employee within 5 years, the state
3781 board shall transfer to the member's ~~participant's~~
3782 ~~account~~ any amount previously transferred from the member's



328098

3783 ~~participant's~~ accounts to the suspense account, plus the actual
3784 earnings on such amount while in the suspense account.

3785 (d) ~~(e)~~ Any nonvested accumulations transferred from a
3786 member's ~~participant's~~ account to the state board's suspense
3787 account shall be forfeited, including accompanying service
3788 credit, by the member ~~participant~~ if the member ~~participant~~ is
3789 not reemployed as an eligible employee within 5 years after
3790 termination.

3791 (e) If the member elects to receive any of his or her
3792 vested employee or employer contributions upon termination of
3793 employment as provided in s. 121.021(39) (a), except for a
3794 mandatory distribution of a de minimis account authorized by the
3795 state board or a minimum required distribution provided by s.
3796 401(a) (9) of the Internal Revenue Code, the member shall forfeit
3797 all nonvested employer contributions, and accompanying service
3798 credit, paid on behalf of the member to the investment plan.

3799 (7) BENEFITS.—Under the investment plan, benefits must
3800 ~~Public Employee Optional Retirement Program:~~

3801 (a) ~~Benefits shall~~ Be provided in accordance with s. 401(a)
3802 of the Internal Revenue Code.

3803 (b) ~~Benefits shall~~ Accrue in individual accounts that are
3804 member-directed ~~participant-directed~~, portable, and funded by
3805 employer and employee contributions and earnings thereon.

3806 (c) ~~Benefits shall~~ Be payable in accordance with ~~the~~
3807 ~~provisions of~~ s. 121.591.

3808 (8) INVESTMENT PLAN ADMINISTRATION OF PROGRAM.—

3809 ~~(a)~~ The investment plan ~~optional retirement program~~ shall
3810 be administered by the state board and affected employers. The
3811 state board may require oaths, by affidavit or otherwise, and



328098

3812 acknowledgments from persons in connection with the
3813 administration of its statutory duties and responsibilities for
3814 the investment plan ~~this program~~. An oath, by affidavit or
3815 otherwise, may not be required of a member ~~an employee~~
3816 ~~participant~~ at the time of enrollment. Acknowledgment of an
3817 employee's election to participate in the program shall be no
3818 greater than necessary to confirm the employee's election. The
3819 state board shall adopt rules to carry out its statutory duties
3820 with respect to administering the investment plan ~~optional~~
3821 ~~retirement program~~, including establishing the roles and
3822 responsibilities of affected state, local government, and
3823 education-related employers, the state board, the department,
3824 and third-party contractors. The department shall adopt rules
3825 necessary to administer the investment plan ~~optional program~~ in
3826 coordination with the pension plan ~~defined benefit program~~ and
3827 the disability benefits available under the investment plan
3828 ~~optional program~~.

3829 (a) ~~(b)~~1. The state board shall select and contract with a
3830 ~~one~~ third-party administrator to provide administrative services
3831 if those services cannot be competitively and contractually
3832 provided by the division ~~of Retirement within the Department of~~
3833 ~~Management Services~~. With the approval of the state board, the
3834 third-party administrator may subcontract ~~with other~~
3835 ~~organizations or individuals~~ to provide components of the
3836 administrative services. As a cost of administration, the state
3837 board may compensate any such contractor for its services, in
3838 accordance with the terms of the contract, as is deemed
3839 necessary or proper by the board. The third-party administrator
3840 may not be an approved provider or be affiliated with an



328098

3841 approved provider.

3842 2. These administrative services may include, but are not
3843 limited to, enrollment of eligible employees, collection of
3844 employer and employee contributions, disbursement of ~~such~~
3845 contributions to approved providers in accordance with the
3846 allocation directions of members ~~participants~~; services relating
3847 to consolidated billing; individual and collective recordkeeping
3848 and accounting; asset purchase, control, and safekeeping; and
3849 direct disbursement of funds to and from the third-party
3850 administrator, the division, the state board, employers, members
3851 ~~participants~~, approved providers, and beneficiaries. This
3852 section does not prevent or prohibit a bundled provider from
3853 providing any administrative or customer service, including
3854 accounting and administration of individual member ~~participant~~
3855 benefits and contributions; individual member ~~participant~~
3856 recordkeeping; asset purchase, control, and safekeeping; direct
3857 execution of the member's ~~participant's~~ instructions as to asset
3858 and contribution allocation; calculation of daily net asset
3859 values; direct access to member ~~participant~~ account information;
3860 or periodic reporting to members ~~participants~~, at least
3861 quarterly, on account balances and transactions, if these
3862 services are authorized by the state board as part of the
3863 contract.

3864 **(b)1.3.** The state board shall select and contract with one
3865 or more organizations to provide educational services. With
3866 approval of the state board, the organizations may subcontract
3867 ~~with other organizations or individuals~~ to provide components of
3868 the educational services. As a cost of administration, the state
3869 board may compensate any such contractor for its services in



328098

3870 accordance with the terms of the contract, as is deemed
3871 necessary or proper by the board. The education organization may
3872 not be an approved provider or be affiliated with an approved
3873 provider.

3874 ~~2.4.~~ Educational services shall be designed by the state
3875 board and department to assist employers, eligible employees,
3876 members participants, and beneficiaries in order to maintain
3877 compliance with United States Department of Labor regulations
3878 under s. 404(c) of the Employee Retirement Income Security Act
3879 of 1974 and to assist employees in their choice of pension plan
3880 ~~defined benefit~~ or investment plan ~~defined contribution~~
3881 retirement alternatives. Educational services include, but are
3882 not limited to, disseminating educational materials; providing
3883 retirement planning education; explaining the pension
3884 ~~differences between the defined benefit retirement plan and the~~
3885 investment ~~defined contribution retirement~~ plan; and offering
3886 financial planning guidance on matters such as investment
3887 diversification, investment risks, investment costs, and asset
3888 allocation. An approved provider may also provide educational
3889 information, including retirement planning and investment
3890 allocation information concerning its products and services.

3891 (c)1. In evaluating and selecting a third-party
3892 administrator, the state board shall establish criteria for
3893 evaluating ~~under which it shall consider~~ the relative
3894 capabilities and qualifications of each proposed administrator.
3895 In developing such criteria, the state board shall consider:

3896 a. The administrator's demonstrated experience in providing
3897 administrative services to public or private sector retirement
3898 systems.



328098

3899 b. The administrator's demonstrated experience in providing
3900 daily valued recordkeeping to defined contribution programs
3901 plans.

3902 c. The administrator's ability and willingness to
3903 coordinate its activities with ~~the Florida Retirement System~~
3904 employers, the state board, and the division, and to supply to
3905 such employers, the board, and the division the information and
3906 data they require, including, but not limited to, monthly
3907 management reports, quarterly member ~~participant~~ reports, and ad
3908 hoc reports requested by the department or state board.

3909 d. The cost-effectiveness and levels of the administrative
3910 services provided.

3911 e. The administrator's ability to interact with the members
3912 ~~participants~~, the employers, the state board, the division, and
3913 the providers; the means by which members ~~participants~~ may
3914 access account information, direct investment of contributions,
3915 make changes to their accounts, transfer moneys between
3916 available investment vehicles, and transfer moneys between
3917 investment products; and any fees that apply to such activities.

3918 f. Any other factor deemed necessary by the ~~Trustees of the~~
3919 state board ~~of Administration~~.

3920 2. In evaluating and selecting an educational provider, the
3921 state board shall establish criteria under which it shall
3922 consider the relative capabilities and qualifications of each
3923 proposed educational provider. In developing such criteria, the
3924 state board shall consider:

3925 a. Demonstrated experience in providing educational
3926 services to public or private sector retirement systems.

3927 b. Ability and willingness to coordinate its activities



328098

3928 with the ~~Florida Retirement System~~ employers, the state board,
3929 and the division, and to supply to such employers, the board,
3930 and the division the information and data they require,
3931 including, but not limited to, reports on educational contacts.

3932 c. The cost-effectiveness and levels of the educational
3933 services provided.

3934 d. Ability to provide educational services via different
3935 media, including, but not limited to, the Internet, personal
3936 contact, seminars, brochures, and newsletters.

3937 e. Any other factor deemed necessary by the ~~Trustees of the~~
3938 state board ~~of Administration~~.

3939 3. The establishment of the criteria shall be solely within
3940 the discretion of the state board.

3941 (d) The state board shall develop the form and content of
3942 any contracts to be offered under the investment plan ~~Public~~
3943 ~~Employee Optional Retirement Program~~. In developing the ~~its~~
3944 contracts, the board shall ~~must~~ consider:

3945 1. The nature and extent of the rights and benefits to be
3946 afforded in relation to the ~~required~~ contributions required
3947 under the plan ~~program~~.

3948 2. The suitability of the rights and benefits provided ~~to~~
3949 ~~be afforded~~ and the interests of employers in the recruitment
3950 and retention of eligible employees.

3951 (e)1. The state board may contract ~~with any consultant~~ for
3952 professional services, including legal, consulting, accounting,
3953 and actuarial services, deemed necessary to implement and
3954 administer the investment plan ~~optional program by the Trustees~~
3955 ~~of the State Board of Administration~~. The state board may enter
3956 into a contract with one or more vendors to provide low-cost



328098

3957 investment advice to members ~~participants~~, supplemental to
3958 education provided by the third-party administrator. All fees
3959 under any such contract shall be paid by those members
3960 ~~participants~~ who choose to use the services of the vendor.

3961 2. The department may contract ~~with consultants~~ for
3962 professional services, including legal, consulting, accounting,
3963 and actuarial services, deemed necessary to implement and
3964 administer the investment plan ~~optional program~~ in coordination
3965 with the pension plan ~~defined benefit program of the Florida~~
3966 ~~Retirement System~~. The department, in coordination with the
3967 state board, may enter into a contract with the third-party
3968 administrator in order to coordinate services common to the
3969 various programs within the Florida Retirement System.

3970 (f) The third-party administrator may ~~shall~~ not receive
3971 direct or indirect compensation from an approved provider,
3972 except as specifically provided for in the contract with the
3973 state board.

3974 (g) The state board shall receive and resolve member
3975 ~~participant~~ complaints against the program, the third-party
3976 administrator, or any program vendor or provider; shall resolve
3977 any conflict between the third-party administrator and an
3978 approved provider if such conflict threatens the implementation
3979 or administration of the program or the quality of services to
3980 employees; and may resolve any other conflicts. The third-party
3981 administrator shall retain all member ~~participant~~ records for at
3982 least 5 years for use in resolving any member ~~participant~~
3983 conflicts. The state board, the third-party administrator, or a
3984 provider is not required to produce documentation or an audio
3985 recording to justify action taken with regard to a member



328098

3986 ~~participant~~ if the action occurred 5 or more years before the
3987 complaint is submitted to the state board. It is presumed that
3988 all action taken 5 or more years before the complaint is
3989 submitted was taken at the request of the member ~~participant~~ and
3990 with the member's ~~participant's~~ full knowledge and consent. To
3991 overcome this presumption, the member ~~participant~~ must present
3992 documentary evidence or an audio recording demonstrating
3993 otherwise.

3994 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

3995 (a) The state board shall develop policy and procedures for
3996 selecting, evaluating, and monitoring the performance of
3997 approved providers and investment products ~~to which employees~~
3998 ~~may direct retirement contributions~~ under the investment plan
3999 ~~program~~. In accordance with such policy and procedures, the
4000 state board shall designate and contract for a number of
4001 investment products as determined by the board. The board shall
4002 also select one or more bundled providers, each of which ~~whom~~
4003 may offer multiple investment options and related services, if
4004 ~~when~~ such ~~an~~ approach is determined by the board to provide
4005 ~~afford~~ value to the members ~~participants~~ otherwise not available
4006 through individual investment products. Each approved bundled
4007 provider may offer investment options that provide members
4008 ~~participants~~ with the opportunity to invest in each of the
4009 following asset classes, to be composed of individual options
4010 that represent ~~either~~ a single asset class or a combination
4011 thereof: money markets, United States fixed income, United
4012 States equities, and foreign stock. The state board shall review
4013 and manage all educational materials, contract terms, fee
4014 schedules, and other aspects of the approved provider



328098

4015 relationships to ensure that no provider is unduly favored or
4016 penalized by virtue of its status within the investment plan.

4017 (b) The state board shall consider investment options or
4018 products it considers appropriate to give members ~~participants~~
4019 the opportunity to accumulate retirement benefits, subject to
4020 the following:

4021 1. The investment plan ~~Public Employee Optional Retirement~~
4022 ~~Program~~ must offer a diversified mix of low-cost investment
4023 products that span the risk-return spectrum and may include a
4024 guaranteed account as well as investment products, such as
4025 individually allocated guaranteed and variable annuities, which
4026 meet the requirements of this subsection and combine the ability
4027 to accumulate investment returns with the option of receiving
4028 lifetime income consistent with the long-term retirement
4029 security of a pension plan and similar to the lifetime-income
4030 benefit provided by the Florida Retirement System.

4031 2. Investment options or products offered by ~~the group of~~
4032 approved providers may include mutual funds, group annuity
4033 contracts, individual retirement annuities, interests in trusts,
4034 collective trusts, separate accounts, and other such financial
4035 instruments, and ~~may include~~ products that give members
4036 ~~participants~~ the option of committing their contributions for an
4037 extended time period in an effort to obtain returns higher than
4038 those that could be obtained from investment products offering
4039 full liquidity.

4040 3. The state board may ~~shall~~ not contract with a ~~any~~
4041 provider that imposes a front-end, back-end, contingent, or
4042 deferred sales charge, or any other fee that limits or restricts
4043 the ability of members ~~participants~~ to select any investment



328098

4044 product available in the investment plan ~~optional program~~. This
4045 prohibition does not apply to fees or charges that are imposed
4046 on withdrawals from products that give members ~~participants~~ the
4047 option of committing ~~their~~ contributions for an extended time
4048 period in an effort to obtain returns higher than those that
4049 could be obtained from investment products offering full
4050 liquidity, if provided that the product ~~in question~~, net of all
4051 fees and charges, produces material benefits relative to other
4052 comparable products in the investment plan ~~program~~ offering full
4053 liquidity.

4054 4. Fees or charges for insurance features, such as
4055 mortality and expense-risk charges, must be reasonable relative
4056 to the benefits provided.

4057 (c) In evaluating and selecting approved providers and
4058 products, the state board shall establish criteria for
4059 evaluating ~~under which it shall consider~~ the relative
4060 capabilities and qualifications of each proposed provider
4061 company and product. In developing such criteria, the board
4062 shall consider the following to the extent such factors may be
4063 applied in connection with investment products, services, or
4064 providers:

4065 1. Experience in the United States providing retirement
4066 products and related financial services under defined
4067 contribution retirement programs ~~plans~~.

4068 2. Financial strength and stability as ~~which shall be~~
4069 evidenced by the highest ratings assigned by nationally
4070 recognized rating services when comparing proposed providers
4071 that are so rated.

4072 3. Intrastate and interstate portability of the product



328098

4073 offered, including early withdrawal options.

4074 4. Compliance with the Internal Revenue Code.

4075 5. The cost-effectiveness of the product provided and the
4076 levels of service supporting the product relative to its
4077 benefits and its characteristics, including, ~~without limitation,~~
4078 the level of risk borne by the provider.

4079 6. The provider company's ability and willingness to
4080 coordinate its activities with Florida Retirement System
4081 employers, the department, and the state board, and to supply
4082 the ~~to such~~ employers, the department, and the board with the
4083 information and data they require.

4084 7. The methods available to members ~~participants~~ to
4085 interact with the provider company; the means by which members
4086 ~~participants~~ may access account information, direct investment
4087 of contributions, make changes to their accounts, transfer
4088 moneys between available investment vehicles, and transfer
4089 moneys between provider companies; and any fees that apply to
4090 such activities.

4091 8. The provider company's policies with respect to the
4092 transfer of individual account balances, contributions, and
4093 earnings thereon, both internally among investment products
4094 offered by the provider company and externally between approved
4095 providers, as well as any fees, charges, reductions, or
4096 penalties that may be applied.

4097 9. An evaluation of specific investment products, taking
4098 into account each product's experience in meeting its investment
4099 return objectives net of all related fees, expenses, and
4100 charges, including, but not limited to, investment management
4101 fees, loads, distribution and marketing fees, custody fees,



328098

4102 recordkeeping fees, education fees, annuity expenses, and
4103 consulting fees.

4104 10. Organizational factors, including, but not limited to,
4105 financial solvency, organizational depth, and experience in
4106 providing institutional and retail investment services.

4107 (d) By March 1, 2010, the state board shall identify and
4108 offer at least one terror-free investment product that allocates
4109 its funds among securities not subject to divestiture as
4110 provided in s. 215.473 if the investment product is deemed by
4111 the state board to be consistent with prudent investor
4112 standards. ~~A~~ No person may not bring a civil, criminal, or
4113 administrative action against an approved provider; the state
4114 board; or any employee, officer, director, or trustee of such
4115 provider based upon the divestiture of any security or the
4116 offering of a terror-free investment product as specified in
4117 this paragraph.

4118 (e) As a condition of offering an ~~any~~ investment option or
4119 product in the investment plan ~~optional retirement program~~, the
4120 approved provider must agree to make the investment product or
4121 service available under the most beneficial terms offered to any
4122 other customer, subject to approval by the ~~Trustees of the state~~
4123 board ~~of Administration~~.

4124 (f) The state board shall regularly review the performance
4125 of each approved provider and product and related organizational
4126 factors to ensure continued compliance with established
4127 selection criteria and with board policy and procedures.
4128 Providers and products may be terminated subject to contract
4129 provisions. The state board shall adopt procedures to transfer
4130 account balances from terminated products or providers to other



328098

4131 products or providers in the investment plan ~~optional program~~.

4132 (g)1. An approved provider shall comply with all applicable
4133 federal and state securities and insurance laws and regulations
4134 ~~applicable to the provider~~, as well as with the applicable rules
4135 and guidelines of the National Association of Securities Dealers
4136 which govern the ethical marketing of investment products. In
4137 furtherance of this mandate, an approved provider must agree in
4138 its contract with the state board to establish and maintain a
4139 compliance education and monitoring system to supervise the
4140 activities of all personnel who directly communicate with
4141 individual members ~~participants~~ and recommend investment
4142 products, which system is consistent with rules of the National
4143 Association of Securities Dealers.

4144 2. Approved provider personnel who directly communicate
4145 with individual members ~~participants~~ and who recommend
4146 investment products shall make an independent and unbiased
4147 determination as to whether an investment product is suitable
4148 for a particular member ~~participant~~.

4149 3. The state board shall develop procedures to receive and
4150 resolve member ~~participant~~ complaints against a provider or
4151 approved provider personnel, and, if ~~when~~ appropriate, refer
4152 such complaints to the appropriate agency.

4153 4. Approved providers may not sell or in any way distribute
4154 any customer list or member ~~participant~~ identification
4155 information generated through their offering of products or
4156 services through the investment plan ~~optional retirement~~
4157 ~~program~~.

4158 (10) EDUCATION COMPONENT.—

4159 (a) The state board, in coordination with the department,



328098

4160 shall provide for an education component for system members in a
4161 manner consistent with the provisions of this section. The
4162 education component must be available to eligible employees at
4163 least 90 days prior to the beginning date of the election period
4164 for the employees of the respective types of employers.

4165 (b) The education component must provide system members
4166 with impartial and balanced information about plan choices. The
4167 education component must involve multimedia formats. Program
4168 comparisons must, to the greatest extent possible, be based upon
4169 the retirement income that different retirement programs may
4170 provide to the member ~~participant~~. The state board shall monitor
4171 the performance of the contract to ensure that the program is
4172 conducted in accordance with the contract, applicable law, and
4173 the rules of the state board.

4174 (c) The state board, in coordination with the department,
4175 shall provide for an initial and ongoing transfer education
4176 component to provide system members with information necessary
4177 to make informed plan choice decisions. The transfer education
4178 component must include, but is not limited to, information on:

4179 1. The amount of money available to a member to transfer to
4180 the defined contribution program.

4181 2. The features of and differences between the pension plan
4182 ~~defined benefit program~~ and the defined contribution program,
4183 both generally and specifically, as those differences may affect
4184 the member.

4185 3. The expected benefit available if the member were to
4186 retire under each of the retirement programs, based on
4187 appropriate alternative sets of assumptions.

4188 4. The rate of return from investments in the defined



328098

4189 contribution program and the period of time over which such rate
4190 of return must be achieved to equal or exceed the expected
4191 monthly benefit payable to the member under the pension plan
4192 ~~defined benefit program~~.

4193 5. The historical rates of return for the investment
4194 alternatives available in the defined contribution programs.

4195 6. The benefits and historical rates of return on
4196 investments available in a typical deferred compensation plan or
4197 a typical plan under s. 403(b) of the Internal Revenue Code for
4198 which the employee may be eligible.

4199 7. The program choices available to employees of the State
4200 University System and the comparative benefits of each available
4201 program, if applicable.

4202 8. Payout options available in each of the retirement
4203 programs.

4204 (d) An ongoing education and communication component must
4205 provide eligible employees ~~system members~~ with information
4206 necessary to make informed decisions about choices within their
4207 retirement system ~~program of membership~~ and in preparation for
4208 retirement. The component must include, but is not limited to,
4209 information concerning:

4210 1. Rights and conditions of membership.

4211 2. Benefit features within the program, options, and
4212 effects of certain decisions.

4213 3. Coordination of contributions and benefits with a
4214 deferred compensation plan under s. 457 or a plan under s.
4215 403(b) of the Internal Revenue Code.

4216 4. Significant program changes.

4217 5. Contribution rates and program funding status.



328098

4218 6. Planning for retirement.

4219 (e) Descriptive materials must be prepared under the
4220 assumption that the employee is an unsophisticated investor, and
4221 all materials used in the education component must be approved
4222 by the state board prior to dissemination.

4223 (f) The state board and the department shall also establish
4224 a communication component to provide program information to
4225 participating employers and the employers' personnel and payroll
4226 officers and to explain their respective responsibilities in
4227 conjunction with the retirement programs.

4228 (g) Funding for education of new employees may reflect
4229 administrative costs to the investment plan ~~optional program~~ and
4230 the pension plan ~~defined benefit program~~.

4231 (h) Pursuant to subsection ~~paragraph~~ (8) ~~(a)~~, all Florida
4232 Retirement System employers have an obligation to regularly
4233 communicate the existence of the two Florida Retirement System
4234 plans and the plan choice in the natural course of administering
4235 their personnel functions, using the educational materials
4236 supplied by the state board and the Department of Management
4237 Services.

4238 (11) MEMBER PARTICIPANT INFORMATION REQUIREMENTS.—The state
4239 board shall ensure that each member ~~participant~~ is provided a
4240 quarterly statement that accounts for the contributions made on
4241 behalf of the member ~~such participant~~; the interest and
4242 investment earnings thereon; and any fees, penalties, or other
4243 deductions that apply ~~thereto~~. At a minimum, such statements
4244 must:

4245 (a) Indicate the member's ~~participant's~~ investment options.

4246 (b) State the market value of the account at the close of



328098

4247 the current quarter and previous quarter.

4248 (c) Show account gains and losses ~~for the period~~ and
4249 changes in account accumulation unit values for the quarter
4250 ~~period~~.

4251 (d) Itemize account contributions for the quarter.

4252 (e) Indicate any account changes due to adjustment of
4253 contribution levels, reallocation of contributions, balance
4254 transfers, or withdrawals.

4255 (f) Set forth any fees, charges, penalties, and deductions
4256 that apply to the account.

4257 (g) Indicate the amount of the account in which the member
4258 ~~participant~~ is fully vested and the amount of the account in
4259 which the member participant is not vested.

4260 (h) Indicate each investment product's performance relative
4261 to an appropriate market benchmark.

4262

4263 The third-party administrator shall provide quarterly and annual
4264 summary reports to the state board and any other reports
4265 requested by the department or the state board. In any
4266 solicitation or offer of coverage under the investment plan ~~an~~
4267 ~~optional retirement program~~, a provider company shall be
4268 governed by the contract readability provisions of s. 627.4145,
4269 notwithstanding s. 627.4145(6)(c). In addition, all descriptive
4270 materials must be prepared under the assumption that the member
4271 ~~participant~~ is an unsophisticated investor. Provider companies
4272 must maintain an internal system of quality assurance, have
4273 proven functional systems that are date-calculation compliant,
4274 and be subject to a due-diligence inquiry that proves their
4275 capacity and fitness to undertake service responsibilities.



328098

4276 (12) ADVISORY COUNCIL TO PROVIDE ADVICE AND ASSISTANCE.—The
4277 Investment Advisory Council, created pursuant to s. 215.444,
4278 shall assist the state board in implementing and administering
4279 the investment plan ~~Public Employee Optional Retirement Program.~~
4280 The ~~Investment Advisory council, created pursuant to s. 215.444,~~
4281 shall review the state board's initial recommendations regarding
4282 the criteria to be used in selecting and evaluating approved
4283 providers and investment products. The council may provide
4284 comments on the recommendations to the state board within 45
4285 days after receiving the initial recommendations. The state
4286 board shall make the final determination as to whether any
4287 investment provider or product, any contractor, or any and all
4288 contract provisions are ~~shall be~~ approved for the investment
4289 plan ~~program.~~

4290 (13) FEDERAL REQUIREMENTS.—

4291 (a) ~~Provisions of~~ This section shall be construed, and the
4292 investment plan ~~Public Employee Optional Retirement Program~~
4293 shall be administered, so as to comply with the Internal Revenue
4294 Code, 26 U.S.C., and specifically with plan qualification
4295 requirements imposed on governmental plans under s. 401(a) of
4296 the Internal Revenue Code. The state board may ~~shall have the~~
4297 ~~power and authority to~~ adopt rules reasonably necessary to
4298 establish or maintain the qualified status of the investment
4299 plan ~~Optional Retirement Program~~ under the Internal Revenue Code
4300 and to implement and administer the investment plan ~~Optional~~
4301 ~~Retirement Program~~ in compliance with the Internal Revenue Code
4302 and as designated under this part; provided however, that the
4303 board shall not have the authority to adopt any rule which makes
4304 a substantive change to the investment plan ~~Optional Retirement~~



328098

4305 ~~Program~~ as designed by this part.

4306 (b) Any section or provision of this chapter which is
4307 susceptible to more than one construction shall ~~must~~ be
4308 interpreted in favor of the construction most likely to satisfy
4309 requirements imposed by s. 401(a) of the Internal Revenue Code.

4310 (c) Contributions payable under this section for any
4311 limitation year may not exceed the maximum amount allowable for
4312 qualified defined contribution pension plans under applicable
4313 provisions of the Internal Revenue Code. If an employee who is
4314 enrolled ~~has elected to participate~~ in the investment plan
4315 ~~Public Employee Optional Retirement Program~~ participates in any
4316 other plan that is maintained by the participating employer,
4317 benefits that accrue under the investment plan ~~Public Employee~~
4318 ~~Optional Retirement Program~~ shall be considered primary for any
4319 aggregate limitation applicable under s. 415 of the Internal
4320 Revenue Code.

4321 (14) INVESTMENT POLICY STATEMENT.—

4322 (a) Investment products and approved providers selected for
4323 the investment plan ~~must~~ ~~Public Employee Optional Retirement~~
4324 ~~Program shall~~ conform with the Florida Retirement System
4325 Investment Plan ~~Public Employee Optional Retirement Program~~
4326 Investment Policy Statement, herein referred to as the
4327 "statement," as developed and approved by the trustees of the
4328 state board ~~of Administration~~. The statement must include, among
4329 other items, the investment objectives of the investment plan
4330 ~~Public Employee Optional Retirement Program~~, manager selection
4331 and monitoring guidelines, and performance measurement criteria.
4332 As required from time to time, the executive director of the
4333 state board may present recommended changes in the statement to



328098

4334 the board for approval.

4335 (b) Prior to presenting the statement, or any recommended
4336 changes thereto, to the state board, the executive director of
4337 the board shall present such statement or changes to the
4338 Investment Advisory Council for review. The council shall
4339 present the results of its review to the board prior to the
4340 board's final approval of the statement or changes in the
4341 statement.

4342 (15) STATEMENT OF FIDUCIARY STANDARDS AND
4343 RESPONSIBILITIES.-

4344 (a) Investment of ~~optional~~ defined contribution ~~retirement~~
4345 plan assets shall be made for the sole interest and exclusive
4346 purpose of providing benefits to members ~~plan participants~~ and
4347 beneficiaries and defraying reasonable expenses of administering
4348 the plan. The program's assets shall ~~are to~~ be invested, on
4349 behalf of the program members ~~participants~~, with the care,
4350 skill, and diligence that a prudent person acting in a like
4351 manner would undertake. The performance of the investment duties
4352 set forth in this paragraph shall comply with the fiduciary
4353 standards set forth in the Employee Retirement Income Security
4354 Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). In case of
4355 conflict with other provisions of law authorizing investments,
4356 the investment and fiduciary standards set forth in this
4357 subsection shall prevail.

4358 (b) If a member ~~participant~~ or beneficiary of the
4359 investment plan ~~Public Employee Optional Retirement Program~~
4360 exercises control over the assets in his or her account, as
4361 determined by reference to regulations of the United States
4362 Department of Labor under s. 404(c) of the Employee Retirement



328098

4363 Income Security Act of 1974 and all applicable laws governing
4364 the operation of the program, a ne program fiduciary is not
4365 ~~shall be~~ liable for any loss to a member's participant's or
4366 beneficiary's account which results from the member's such
4367 ~~participant's~~ or beneficiary's exercise of control.

4368 (c) Subparagraph (8) (b) 2.4. and paragraph ~~(15)~~ (b)
4369 incorporate the federal law concept of participant control,
4370 established by regulations of the United States Department of
4371 Labor under s. 404(c) of the Employee Retirement Income Security
4372 Act of 1974 (ERISA). The purpose of this paragraph is to assist
4373 employers and the state board ~~of Administration~~ in maintaining
4374 compliance with s. 404(c), while avoiding unnecessary costs and
4375 eroding member participant benefits under the investment plan
4376 ~~Public Employee Optional Retirement Program~~. Pursuant to 29
4377 C.F.R. s. 2550.404c-1(b) (2) (i) (B) (1) (viii), the state board ~~of~~
4378 ~~Administration~~ or its designated agents shall deliver to members
4379 ~~participants~~ of the investment plan ~~Public Employee Optional~~
4380 ~~Retirement Program~~ a copy of the prospectus most recently
4381 provided to the plan, and, pursuant to 29 C.F.R. s. 2550.404c-
4382 1(b) (2) (i) (B) (2) (ii), shall provide such members participants an
4383 opportunity to obtain this information, except that:

4384 1. The requirement to deliver a prospectus shall be ~~deemed~~
4385 ~~to be~~ satisfied by delivery of a fund profile or summary profile
4386 that contains the information that would be included in a
4387 summary prospectus as described by Rule 498 under the Securities
4388 Act of 1933, 17 C.F.R. s. 230.498. If when the transaction fees,
4389 expense information or other information provided by a mutual
4390 fund in the prospectus does not reflect terms negotiated by the
4391 state board ~~of Administration~~ or its designated agents, the



328098

4392 ~~forementioned~~ requirement is ~~deemed to be~~ satisfied by delivery
4393 of a separate document described by Rule 498 substituting
4394 accurate information; and

4395 2. Delivery shall be ~~deemed to have been~~ effected if
4396 delivery is through electronic means and the following standards
4397 are satisfied:

4398 a. Electronically-delivered documents are prepared and
4399 provided consistent with style, format, and content requirements
4400 applicable to printed documents;

4401 b. Each member participant is provided timely and adequate
4402 notice of the documents that are to be delivered, and their
4403 significance thereof, and of the member's participant's right to
4404 obtain a paper copy of such documents free of charge;

4405 c. ~~(I) Members Participants~~ have adequate access to the
4406 electronic documents, at locations such as their worksites or
4407 public facilities, and have the ability to convert the documents
4408 to paper free of charge by the state board ~~of Administration~~,
4409 and the board or its designated agents take appropriate and
4410 reasonable measures to ensure that the system for furnishing
4411 electronic documents results in actual receipt. ~~or~~

4412 ~~(II) Members Participants~~ have provided consent to receive
4413 information in electronic format, which consent may be revoked;
4414 and

4415 d. The state board ~~of Administration~~, or its designated
4416 agent, actually provides paper copies of the documents free of
4417 charge, upon request.

4418 (16) DISABILITY BENEFITS.—For any member participant of the
4419 investment plan optional retirement program who becomes totally
4420 and permanently disabled, benefits must ~~shall~~ be paid in



328098

4421 accordance with the provisions of s. 121.591.

4422 (17) SOCIAL SECURITY COVERAGE.—Social security coverage
4423 shall be provided for all officers and employees who become
4424 members participants of the investment plan optional program.
4425 Any modification of the present agreement with the Social
4426 Security Administration, or referendum required under the Social
4427 Security Act, for the purpose of providing social security
4428 coverage for any member shall be requested by the state agency
4429 in compliance with the applicable provisions of the Social
4430 Security Act governing such coverage. However, retroactive
4431 social security coverage for service prior to December 1, 1970,
4432 with the employer may shall not be provided for any member who
4433 was not covered under the agreement as of November 30, 1970.

4434 (18) RETIREE HEALTH INSURANCE SUBSIDY.—All officers and
4435 employees who are members participants of the investment plan
4436 are optional program shall be eligible to receive the retiree
4437 health insurance subsidy, subject to the provisions of s.
4438 112.363.

4439 (19) MEMBER PARTICIPANT RECORDS.—Personal identifying
4440 information of a member participant in the investment plan
4441 Public Employee Optional Retirement Program contained in Florida
4442 Retirement System records held by the state board of
4443 Administration or the department of Management Services is
4444 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
4445 Constitution.

4446 (20) DESIGNATION OF BENEFICIARIES.—

4447 (a) Each member participant may, by electronic means or on
4448 a form provided for that purpose, signed and filed with the
4449 third-party administrator, designate a choice of one or more



328098

4450 persons, named sequentially or jointly, as his or her
4451 beneficiary for receiving ~~who shall receive~~ the benefits, if
4452 any, which may be payable pursuant to this chapter in the event
4453 of the member's ~~participant's~~ death. If no beneficiary is named
4454 in this manner, or if no beneficiary designated by the member
4455 ~~participant~~ survives the member ~~participant~~, the beneficiary
4456 shall be the spouse of the deceased, if living. If the member's
4457 ~~participant's~~ spouse is not alive at the time of the member's
4458 ~~his or her~~ death, the beneficiary shall be the living children
4459 of the member ~~participant~~. If no children survive, the
4460 beneficiary shall be the member's ~~participant's~~ father or
4461 mother, if living; otherwise, the beneficiary shall be the
4462 member's ~~participant's~~ estate. The beneficiary most recently
4463 designated by a member ~~participant~~ ~~on a form or letter filed~~
4464 ~~with the third-party administrator~~ shall be the beneficiary
4465 entitled to any benefits payable at the time of the member's
4466 ~~participant's~~ death. However ~~Notwithstanding any other provision~~
4467 ~~in this subsection to the contrary~~, for a member ~~participant~~ who
4468 dies prior to his or her effective date of retirement, the
4469 spouse at the time of death shall be the member's ~~participant's~~
4470 beneficiary unless the member ~~such participant~~ designates a
4471 different beneficiary ~~as provided in this subsection~~ subsequent
4472 to the member's ~~participant's~~ most recent marriage.

4473 (b) If a member ~~participant~~ designates a primary
4474 beneficiary other than the member's ~~participant's~~ spouse, the
4475 member's ~~participant's~~ spouse must sign the beneficiary
4476 designation form to acknowledge the designation. This
4477 requirement does not apply to the designation of one or more
4478 contingent beneficiaries to receive benefits remaining upon the



328098

4479 death of the primary beneficiary or beneficiaries.

4480 (c) Notwithstanding the member's participant's designation
4481 of benefits to be paid through a trust to a beneficiary that is
4482 a natural person, ~~and notwithstanding~~ the provisions of the
4483 trust, benefits must ~~shall~~ be paid directly to the beneficiary
4484 if the person is no longer a minor or an incapacitated person as
4485 defined in s. 744.102.

4486 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT OPTION
4487 PROGRAM MEMBERS PARTICIPANTS.—Notwithstanding any other
4488 provision of law ~~to the contrary~~, members participants in the
4489 Deferred Retirement Option Program offered under part I may,
4490 after conclusion of their participation in the program, elect to
4491 roll over or authorize a direct trustee-to-trustee transfer to
4492 an account under the investment plan ~~Public Employee Optional~~
4493 ~~Retirement Program~~ of their Deferred Retirement Option Program
4494 proceeds distributed as provided under s. 121.091(13)(c)5. The
4495 transaction must constitute an "eligible rollover distribution"
4496 within the meaning of s. 402(c)(4) of the Internal Revenue Code.

4497 (a) The investment plan ~~Public Employee Optional Retirement~~
4498 ~~Program~~ may accept such amounts for deposit into member
4499 ~~participant~~ accounts as provided in paragraph (5) (e) ~~(e)~~.

4500 (b) The affected member participant shall direct the
4501 investment of his or her investment account; however, unless he
4502 or she becomes a renewed member of the Florida Retirement System
4503 under s. 121.122 and elects to participate in the investment
4504 plan ~~Public Employee Optional Retirement Program~~, no employer
4505 contributions may ~~not~~ be made to the member's participant's
4506 account as provided under paragraph (5)(a).

4507 (c) The state board or the department is not responsible



328098

4508 for locating those persons who may be eligible to participate in
4509 the investment plan ~~Public Employee Optional Retirement Program~~
4510 under this subsection.

4511 (22) CREDIT FOR MILITARY SERVICE.—Creditable service of any
4512 member of the investment plan ~~includes Public Employee Optional~~
4513 ~~Retirement Program shall include~~ military service in the Armed
4514 Forces of the United States as provided in ~~the conditions~~
4515 ~~outlined in~~ s. 121.111(1).

4516 Section 27. Section 121.4502, Florida Statutes, is amended
4517 to read:

4518 121.4502 Florida Retirement System Investment Plan ~~Public~~
4519 ~~Employee Optional Retirement Program~~ Trust Fund.—

4520 (1) The Florida Retirement System Investment Plan ~~Public~~
4521 ~~Employee Optional Retirement Program~~ Trust Fund is created to
4522 hold the assets of the Florida Retirement System Investment Plan
4523 ~~Public Employee Optional Retirement Program~~ in trust for the
4524 exclusive benefit of the plan's members ~~such program's~~
4525 ~~participants~~ and beneficiaries, and for the payment of
4526 reasonable administrative expenses of the plan ~~program~~, in
4527 accordance with s. 401 of the Internal Revenue Code, and shall
4528 be administered by the state board ~~of Administration~~ as trustee.
4529 Funds shall be credited to the trust fund as provided in this
4530 part, to be used for the purposes of this part. The trust fund
4531 is exempt from the service charges imposed by s. 215.20.

4532 (2) The Florida Retirement System Investment Plan ~~Public~~
4533 ~~Employee Optional Retirement Program~~ Trust Fund is a retirement
4534 trust fund of the Florida Retirement System that accounts for
4535 retirement plan assets held by the state in a trustee capacity
4536 as a fiduciary for individual participants in the Florida



328098

4537 Retirement System Investment Plan ~~Public Employee Optional~~
4538 ~~Retirement Program~~ and, pursuant to s. 19(f), Art. III of the
4539 State Constitution, is not subject to termination.

4540 (3) A forfeiture account shall be created within the
4541 Florida Retirement System Investment Plan ~~Public Employee~~
4542 ~~Optional Retirement Program~~ Trust Fund to hold the assets
4543 derived from the forfeiture of benefits by participants.
4544 Pursuant to a private letter ruling from the Internal Revenue
4545 Service, the forfeiture account may be used only for paying
4546 expenses of the Florida Retirement System Investment Plan ~~Public~~
4547 ~~Employee Optional Retirement Program~~ and reducing future
4548 employer contributions to the program. Consistent with Rulings
4549 80-155 and 74-340 of the Internal Revenue Service, unallocated
4550 reserves within the forfeiture account must be used as quickly
4551 and as prudently as possible considering the state board's
4552 fiduciary duty. Expected withdrawals from the account must
4553 endeavor to reduce the account to zero each fiscal year.

4554 Section 28. Subsections (1) and (3) of section 121.4503,
4555 Florida Statutes, are amended to read:

4556 121.4503 Florida Retirement System Contributions Clearing
4557 Trust Fund.—

4558 (1) The Florida Retirement System Contributions Clearing
4559 Trust Fund is created as a clearing fund for disbursing employer
4560 and employee contributions to the component plans of the Florida
4561 Retirement System and shall be administered by the Department of
4562 Management Services. Funds shall be credited to the trust fund
4563 as provided in this chapter and ~~shall be~~ held in trust for the
4564 contributing employees and employers until such time as the
4565 assets are transferred by the department to the Florida



328098

4566 Retirement System Trust Fund, the Florida Retirement System
4567 Investment Plan ~~Public Employee Optional Retirement Program~~
4568 Trust Fund, or other trust funds as authorized by law, to be
4569 used for the purposes of this chapter. The trust fund is exempt
4570 from the service charges imposed by s. 215.20.

4571 (3) The Department of Management Services may adopt rules
4572 governing the receipt and disbursement of amounts received by
4573 the Florida Retirement System Contributions Clearing Trust Fund
4574 from employers and employees contributing to the component plans
4575 of the Florida Retirement System.

4576 Section 29. Section 121.571, Florida Statutes, is amended
4577 to read:

4578 121.571 Contributions.—Contributions to the Florida
4579 Retirement System Investment Plan ~~Public Employee Optional~~
4580 ~~Retirement Program~~ shall be made as follows:

4581 (1) CONTRIBUTORY ~~NONCONTRIBUTORY~~ PLAN.—Each employer and
4582 employee shall submit ~~accomplish the~~ contributions as required
4583 by s. 121.71 ~~by a procedure in which no employee's gross salary~~
4584 ~~shall be reduced.~~

4585 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund the
4586 retirement and disability benefits provided under this part must
4587 ~~shall~~ be based on the uniform contribution rates established by
4588 s. 121.71 and on the membership class or subclass of the member
4589 ~~participant~~. Such contributions must ~~shall~~ be allocated as
4590 provided in ss. 121.72 and 121.73.

4591 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR
4592 RETIREE HEALTH INSURANCE SUBSIDY.—Contributions required under
4593 s. 121.71 ~~are this section shall be~~ in addition to employer and
4594 member contributions ~~required~~ for social security and the



328098

4595 Retiree Health Insurance Subsidy Trust Fund as required under
4596 ~~provided in~~ ss. 112.363, 121.052, 121.055, and 121.071, as
4597 appropriate.

4598 Section 30. Section 121.591, Florida Statutes, is amended
4599 to read:

4600 121.591 Payment of benefits payable under the Public
4601 ~~Employee Optional Retirement Program of the Florida Retirement~~
4602 ~~System.~~—Benefits may not be paid under the Florida Retirement
4603 System Investment Plan ~~this section~~ unless the member has
4604 terminated employment as provided in s. 121.021(39)(a) or is
4605 deceased and a proper application has been filed as in the
4606 ~~manner~~ prescribed by the state board or the department. Before
4607 termination of employment, benefits, including employee
4608 contributions, are not payable under the investment plan for
4609 employee hardships, unforeseeable emergencies, loans, medical
4610 expenses, educational expenses, purchase of a principal
4611 residence, payments necessary to prevent eviction or foreclosure
4612 on an employee's principal residence, or any other reason prior
4613 to termination from all employment relationships with
4614 participating employers. The state board or department, as
4615 appropriate, may cancel an application for retirement benefits
4616 if when the member or beneficiary fails to timely provide the
4617 information and documents required by this chapter and the rules
4618 of the state board and department. In accordance with their
4619 respective responsibilities ~~as provided herein~~, the state board
4620 ~~of Administration~~ and the department ~~of Management Services~~
4621 shall adopt rules establishing procedures for application for
4622 retirement benefits and for the cancellation of such application
4623 if when the required information or documents are not received.



328098

4624 The state board of ~~Administration~~ and the department of
4625 ~~Management Services~~, as appropriate, are authorized to cash out
4626 a de minimis account of a member participant who has been
4627 terminated from Florida Retirement System covered employment for
4628 a minimum of 6 calendar months. A de minimis account is an
4629 account containing employer and employee contributions and
4630 accumulated earnings of not more than \$5,000 made under the
4631 provisions of this chapter. Such cash-out must ~~either~~ be a
4632 complete lump-sum liquidation of the account balance, subject to
4633 the provisions of the Internal Revenue Code, or a lump-sum
4634 direct rollover distribution paid directly to the custodian of
4635 an eligible retirement plan, as defined by the Internal Revenue
4636 Code, on behalf of the member participant. Any nonvested
4637 accumulations and associated service credit, including amounts
4638 transferred to the suspense account of the Florida Retirement
4639 System Investment Plan Trust Fund authorized under s.
4640 121.4501(6), shall be forfeited upon payment of any vested
4641 benefit to a member or beneficiary, except for de minimis
4642 distributions or minimum required distributions as provided
4643 under this section. If any financial instrument issued for the
4644 payment of retirement benefits under this section is not
4645 presented for payment within 180 days after the last day of the
4646 month in which it was originally issued, the third-party
4647 administrator or other duly authorized agent of the state board
4648 of ~~Administration~~ shall cancel the instrument and credit the
4649 amount of the instrument to the suspense account of the Florida
4650 Retirement System Investment Plan ~~Public Employee Optional~~
4651 ~~Retirement Program~~ Trust Fund authorized under s. 121.4501(6).
4652 Any ~~such~~ amounts transferred to the suspense account are payable



328098

4653 upon a proper application, not to include earnings thereon, as
4654 provided in this section, within 10 years after the last day of
4655 the month in which the instrument was originally issued, after
4656 which time such amounts and any earnings attributable to
4657 employer contributions ~~thereon~~ shall be forfeited. Any ~~such~~
4658 forfeited amounts are assets of the ~~Public Employee Optional~~
4659 ~~Retirement Program~~ trust fund and are not subject to ~~the~~
4660 ~~provisions of~~ chapter 717.

4661 (1) NORMAL BENEFITS.—Under the investment plan ~~Public~~
4662 ~~Employee Optional Retirement Program~~:

4663 (a) Benefits in the form of vested accumulations as
4664 described in s. 121.4501(6) are payable under this subsection in
4665 accordance with the following terms and conditions:

4666 1. ~~To the extent vested,~~ Benefits are payable only to a
4667 member, an alternate payee of a qualified domestic relations
4668 order, or a beneficiary participant.

4669 2. Benefits shall be paid by the third-party administrator
4670 or designated approved providers in accordance with the law, the
4671 contracts, and any applicable board rule or policy.

4672 3. ~~To receive benefits,~~ The member participant must be
4673 terminated from all employment with all Florida Retirement
4674 System employers, as provided in s. 121.021(39).

4675 4. Benefit payments may not be made until the member
4676 ~~participant~~ has been terminated for 3 calendar months, except
4677 that the state board may authorize by rule for the distribution
4678 of up to 10 percent of the member's participant's account after
4679 being terminated for 1 calendar month if the member participant
4680 has reached the normal retirement date as defined in s. 121.021
4681 ~~of the defined benefit plan.~~



328098

4682 5. If a member or former member of the Florida Retirement
4683 System receives an invalid distribution ~~from the Public Employee~~
4684 ~~Optional Retirement Program Trust Fund~~, such person must either
4685 repay the full amount ~~invalid distribution to the trust fund~~
4686 within 90 days after receipt of final notification by the state
4687 board or the third-party administrator that the distribution was
4688 invalid, or, in lieu of repayment, the member must terminate
4689 employment from all participating employers. If such person
4690 fails to repay the full invalid distribution within 90 days
4691 after receipt of final notification, the person may be deemed
4692 retired from the investment plan ~~optional retirement program~~ by
4693 the state board, ~~as provided pursuant to s. 121.4501(2)(k)~~, and
4694 is subject to s. 121.122. If such person is deemed retired ~~by~~
4695 ~~the state board~~, any joint and several liability set out in s.
4696 121.091(9)(d)2. is ~~becomes null and void~~, and the state board,
4697 the department, or the employing agency is not liable for gains
4698 on payroll contributions that have not been deposited to the
4699 person's account in the investment plan ~~retirement program~~,
4700 pending resolution of the invalid distribution. The member or
4701 former member who has been deemed retired or who has been
4702 determined by the state board to have taken an invalid
4703 distribution may appeal the agency decision through the
4704 complaint process as provided under s. 121.4501(9)(g)3. As used
4705 in this subparagraph, the term "invalid distribution" means any
4706 distribution from an account in the investment plan ~~optional~~
4707 ~~retirement program~~ which is taken in violation of this section,
4708 s. 121.091(9), or s. 121.4501.

4709 (b) If a member ~~participant~~ elects to receive his or her
4710 benefits upon termination of employment as defined in s.



328098

4711 121.021, the member participant must submit a written
4712 application or an application by electronic means to the third-
4713 party administrator indicating his or her preferred distribution
4714 date and selecting an authorized method of distribution as
4715 provided in paragraph (c). The member participant may defer
4716 receipt of benefits until he or she chooses to make such
4717 application, subject to federal requirements.

4718 (c) Upon receipt by the third-party administrator of a
4719 properly executed application for distribution of benefits, the
4720 total accumulated benefit is shall be payable to the member pro
4721 rata across all Florida Retirement System benefit sources
4722 participant, as:

4723 1. A lump-sum or partial distribution to the member
4724 participant;

4725 2. A lump-sum direct rollover distribution whereby all
4726 accrued benefits, plus interest and investment earnings, are
4727 paid from the member's participant's account directly to the
4728 custodian of an eligible retirement plan, as defined in s.
4729 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
4730 member participant; or

4731 3. Periodic distributions, as authorized by the state
4732 board.

4733 (d) The distribution payment method selected by the member
4734 or beneficiary, and the retirement of the member or beneficiary,
4735 is final and irrevocable at the time a benefit distribution
4736 payment is cashed, deposited, or transferred to another
4737 financial institution. Any additional service that remains
4738 unclaimed at retirement may not be claimed or purchased, and the
4739 type of retirement may not be changed, except that if a member



328098

4740 recovers from a disability, the member may subsequently request
4741 benefits under subsection (2).

4742 (e) A member may not receive a distribution of employee
4743 contributions if a pending qualified domestic relations order is
4744 filed against the member's investment plan account.

4745 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided under
4746 this subsection are payable in lieu of the benefits that ~~which~~
4747 would otherwise be payable under the provisions of subsection
4748 (1). Such benefits must ~~shall~~ be funded ~~entirely~~ from employer
4749 contributions made under s. 121.571, transferred employee
4750 contributions and participant funds accumulated pursuant to
4751 paragraph (a), and interest and earnings thereon. ~~Pursuant~~
4752 ~~thereto:~~

4753 (a) *Transfer of funds.*—To qualify to receive monthly
4754 disability benefits under this subsection:

4755 1. All moneys accumulated in the member's account
4756 ~~participant's Public Employee Optional Retirement Program~~
4757 ~~accounts~~, including vested and nonvested accumulations as
4758 described in s. 121.4501(6), must ~~shall~~ be transferred from such
4759 individual accounts to the division ~~of Retirement~~ for deposit in
4760 the disability account of the Florida Retirement System Trust
4761 Fund. Such moneys must ~~shall~~ be ~~separately~~ accounted for
4762 separately. Earnings must ~~shall~~ be credited on an annual basis
4763 for amounts held in the disability accounts of the Florida
4764 Retirement System Trust Fund based on actual earnings of the
4765 ~~Florida Retirement System~~ trust fund.

4766 2. If the member ~~participant~~ has retained retirement credit
4767 ~~he or she had~~ earned under the pension plan ~~defined benefit~~
4768 ~~program of the Florida Retirement System~~ as provided in s.



328098

4769 121.4501(3) ~~(b)~~, a sum representing the actuarial present value
4770 of such credit within the Florida Retirement System Trust Fund
4771 shall be reassigned by the division ~~of Retirement~~ from the
4772 pension plan defined benefit program to the disability program
4773 as implemented under this subsection and shall be deposited in
4774 the disability account of the ~~Florida Retirement System~~ trust
4775 fund. Such moneys must ~~shall~~ be ~~separately~~ accounted for
4776 separately.

4777 (b) *Disability retirement; entitlement.*—

4778 1. A member participant of the investment plan Public
4779 ~~Employee Optional Retirement Program~~ who becomes totally and
4780 permanently disabled, as defined in paragraph (d) s.
4781 ~~121.091(4)(b)~~, after completing 8 years of creditable service,
4782 or a member participant who becomes totally and permanently
4783 disabled in the line of duty regardless of ~~his or her~~ length of
4784 service, is ~~shall be~~ entitled to a monthly disability benefit ~~as~~
4785 ~~provided herein~~.

4786 2. In order for service to apply toward the 8 years of
4787 creditable service required ~~to vest~~ for regular disability
4788 benefits, or toward the creditable service used in calculating a
4789 service-based benefit as provided ~~for~~ under paragraph (g), the
4790 service must be creditable service as described below:

4791 a. The member's participant's period of service under the
4792 investment plan shall Public Employee Optional Retirement
4793 ~~Program will~~ be considered creditable service, except as
4794 provided in subparagraph d.

4795 b. If the member participant has elected to retain credit
4796 for ~~his or her~~ service under the pension plan defined benefit
4797 ~~program of the Florida Retirement System~~ as provided under s.



328098

4798 121.4501(3)~~(b)~~, all such service shall ~~will~~ be considered
4799 creditable service.

4800 c. If the member elects ~~participant has elected~~ to transfer
4801 to his or her member ~~participant~~ accounts a sum representing the
4802 present value of his or her retirement credit under the pension
4803 plan defined benefit program as provided under s.

4804 121.4501(3)~~(e)~~, the period of service under the pension plan
4805 ~~defined benefit program~~ represented in the present value amounts
4806 transferred shall ~~will~~ be considered creditable service ~~for~~
4807 ~~purposes of vesting for disability benefits~~, except as provided
4808 in subparagraph d.

4809 d. If a member ~~Whenever a participant~~ has terminated
4810 employment and has taken distribution of his or her funds as
4811 provided in subsection (1), all creditable service represented
4812 by such distributed funds is forfeited for purposes of this
4813 subsection.

4814 (c) *Disability retirement effective date.*—The effective
4815 retirement date for a member ~~participant~~ who applies and is
4816 approved for disability retirement shall be established as
4817 provided under s. 121.091(4) (a)2. and 3.

4818 (d) *Total and permanent disability.*—A member ~~participant~~
4819 shall be considered totally and permanently disabled if, in the
4820 opinion of the division, he or she is prevented, by reason of a
4821 medically determinable physical or mental impairment, from
4822 rendering useful and efficient service as an officer or
4823 employee.

4824 (e) *Proof of disability.*—~~The division,~~ Before approving
4825 payment of any disability retirement benefit, the division shall
4826 require proof that the member ~~participant~~ is totally and



328098

4827 permanently disabled ~~in the same manner~~ as provided for members
4828 of the defined benefit program of the Florida Retirement System
4829 under s. 121.091(4)(c).

4830 (f) *Disability retirement benefit.*—Upon the disability
4831 retirement of a member participant under this subsection, the
4832 member participant shall receive a monthly benefit that begins
4833 accruing ~~shall begin to accrue~~ on the first day of the month of
4834 disability retirement, as approved by the division, and is ~~shall~~
4835 ~~be~~ payable on the last day of that month and each month
4836 thereafter during his or her lifetime and continued disability.
4837 All disability benefits must ~~payable to such member shall~~ be
4838 paid out of the disability account of the Florida Retirement
4839 System Trust Fund established under this subsection.

4840 (g) *Computation of disability retirement benefit.*—The
4841 amount of each monthly payment must ~~shall~~ be calculated ~~in the~~
4842 ~~same manner~~ as provided for members of the defined benefit
4843 ~~program of the Florida Retirement System~~ under s. 121.091(4)(f).
4844 ~~For such purpose,~~ Creditable service under both the pension plan
4845 ~~defined benefit program~~ and the investment plan ~~Public Employee~~
4846 ~~Optional Retirement Program of the Florida Retirement System~~
4847 shall be applicable as provided under paragraph (b).

4848 (h) *Reapplication.*—A member participant whose initial
4849 application for disability retirement is ~~has been~~ denied may
4850 reapply for disability benefits ~~in the same manner, and under~~
4851 ~~the same conditions,~~ as provided in ~~for members of the defined~~
4852 ~~benefit program of the Florida Retirement System~~ under s.
4853 121.091(4)(g).

4854 (i) *Membership.*—Upon approval of a member's ~~an~~ application
4855 for disability benefits ~~under this subsection,~~ the member



328098

4856 ~~applicant~~ shall be transferred to the pension plan ~~defined~~
4857 ~~benefit program of the Florida Retirement System~~, effective upon
4858 his or her disability retirement effective date.

4859 (j) *Option to cancel.*—~~A member~~ Any participant whose
4860 application for disability benefits is approved may cancel the
4861 ~~his or her~~ application if ~~for disability benefits, provided that~~
4862 the cancellation request is received by the division before a
4863 disability retirement warrant has been deposited, cashed, or
4864 received by direct deposit. Upon ~~such~~ cancellation:

4865 1. The member's ~~participant's~~ transfer to the pension plan
4866 ~~defined benefit program~~ under paragraph (i) shall be nullified;

4867 2. The member ~~participant~~ shall be retroactively reinstated
4868 in the investment plan ~~Public Employee Optional Retirement~~
4869 ~~Program~~ without hiatus;

4870 3. All funds transferred to the Florida Retirement System
4871 Trust Fund under paragraph (a) must ~~shall~~ be returned to the
4872 member ~~participant~~ accounts from which the ~~such~~ funds were
4873 drawn; and

4874 4. The member ~~participant~~ may elect to receive the benefit
4875 payable under ~~the provisions of~~ subsection (1) in lieu of
4876 disability benefits ~~as provided under this subsection.~~

4877 (k) *Recovery from disability.*—

4878 1. The division may require periodic reexaminations at the
4879 expense of the disability program account of the Florida
4880 Retirement System Trust Fund. Except as ~~otherwise~~ provided in
4881 subparagraph 2., ~~the requirements, procedures, and restrictions~~
4882 ~~relating to the conduct and review of such reexaminations,~~
4883 ~~discontinuation or termination of benefits, reentry into~~
4884 ~~employment, disability retirement after reentry into covered~~



328098

4885 ~~employment, and~~ all other matters relating to recovery from
4886 disability shall be ~~the same~~ as provided ~~are set forth~~ under s.
4887 121.091(4)(h).

4888 2. Upon recovery from disability, the ~~any~~ recipient of
4889 disability retirement benefits under this subsection shall be a
4890 compulsory member of the investment plan ~~Public Employee~~
4891 ~~Optional Retirement Program of the Florida Retirement System.~~
4892 The net difference between the recipient's original account
4893 balance transferred to the Florida Retirement System Trust Fund,
4894 including earnings, ~~under paragraph (a)~~ and total disability
4895 benefits paid to such recipient, if any, shall be determined as
4896 provided in sub-subparagraph a.

4897 a. An amount equal to the total benefits paid shall be
4898 subtracted from that portion of the transferred account balance
4899 consisting of vested accumulations as described under s.
4900 121.4501(6), if any, and an amount equal to the remainder of
4901 benefit amounts paid, if any, shall ~~then~~ be subtracted from any
4902 remaining ~~portion consisting of~~ nonvested accumulations ~~as~~
4903 ~~described under s. 121.4501(6).~~

4904 b. Amounts subtracted under sub-subparagraph a. must ~~shall~~
4905 be retained within the disability account of the Florida
4906 Retirement System Trust Fund. Any remaining account balance
4907 shall be transferred to the third-party administrator for
4908 disposition as provided under sub-subparagraph c. or sub-
4909 subparagraph d., as appropriate.

4910 c. If the recipient returns to covered employment,
4911 transferred amounts must ~~shall~~ be deposited in individual
4912 accounts under the investment plan ~~Public Employee Optional~~
4913 ~~Retirement Program~~, as directed by the member ~~participant~~.



328098

4914 Vested and nonvested amounts shall be ~~separately~~ accounted for
4915 separately as provided in s. 121.4501(6).

4916 d. If the recipient fails to return to covered employment
4917 upon recovery from disability:

4918 (I) Any remaining vested amount must ~~shall~~ be deposited in
4919 individual accounts under the investment plan ~~Public Employee~~
4920 ~~Optional Retirement Program~~, as directed by the member
4921 ~~participant~~, and is ~~shall~~ be payable as provided in subsection
4922 (1).

4923 (II) Any remaining nonvested amount must ~~shall~~ be held in a
4924 suspense account and is ~~shall~~ be forfeitable after 5 years as
4925 provided in s. 121.4501(6).

4926 3. If present value was reassigned from the pension plan
4927 ~~defined benefit program~~ to the disability program ~~of the Florida~~
4928 ~~Retirement System~~ as provided under subparagraph (a)2., the full
4929 present value amount must ~~shall~~ be returned to the defined
4930 benefit account within the Florida Retirement System Trust Fund
4931 and the member's ~~affected individual's~~ associated retirement
4932 credit under the pension plan ~~must~~ ~~defined benefit program~~ ~~shall~~
4933 be reinstated in full. Any benefit based upon such credit must
4934 ~~shall~~ be calculated as provided in s. 121.091(4)(h)1.

4935 (1) *Nonadmissible causes of disability.*—A member is
4936 ~~participant~~ ~~shall~~ not be entitled to ~~receive~~ a disability
4937 retirement benefit if the disability results from any injury or
4938 disease ~~sustained or inflicted~~ as described in s. 121.091(4)(i).

4939 (m) *Disability retirement of justice or judge by order of*
4940 *Supreme Court.*—

4941 1. If a member ~~participant~~ is a justice of the Supreme
4942 Court, judge of a district court of appeal, circuit judge, or



328098

4943 judge of a county court who has served for the years equal to,
4944 or greater than, the vesting requirement in s. 121.021(45) ~~6~~
4945 ~~years or more~~ as an elected constitutional judicial officer,
4946 including service as a judicial officer in any court abolished
4947 pursuant to Art. V of the State Constitution, and who is retired
4948 for disability ~~by order of the Supreme Court upon recommendation~~
4949 ~~of the Judicial Qualifications Commission~~ pursuant to s. 12, the
4950 ~~provisions of~~ Art. V of the State Constitution, the member's
4951 ~~participant's~~ Option 1 monthly disability benefit amount as
4952 provided in s. 121.091(6)(a)1. shall be two-thirds of his or her
4953 monthly compensation as of the member's ~~participant's~~ disability
4954 retirement date. The member ~~Such a participant~~ may alternatively
4955 elect to receive an actuarially adjusted disability retirement
4956 benefit under any other option as provided in s. 121.091(6)(a),
4957 or to receive the normal benefit payable under ~~the Public~~
4958 ~~Employee Optional Retirement Program as set forth in~~ subsection
4959 (1).

4960 2. If any justice or judge who is a member ~~participant~~ of
4961 the investment plan ~~Public Employee Optional Retirement Program~~
4962 ~~of the Florida Retirement System~~ is retired for disability ~~by~~
4963 ~~order of the Supreme Court upon recommendation of the Judicial~~
4964 ~~Qualifications Commission~~ pursuant to s. 12, the ~~provisions of~~
4965 Art. V of the State Constitution and elects to receive a monthly
4966 disability benefit under the provisions of this paragraph:

4967 a. Any present value amount that was transferred to his or
4968 her investment plan ~~program~~ account and all employer and
4969 employee contributions made to such account on his or her
4970 behalf, plus interest and earnings thereon, must ~~shall~~ be
4971 transferred to and deposited in the disability account of the



328098

4972 Florida Retirement System Trust Fund; and

4973 b. The monthly disability benefits payable under this
4974 paragraph ~~for any affected justice or judge retired from the~~
4975 ~~Florida Retirement System pursuant to Art. V of the State~~
4976 ~~Constitution~~ shall be paid from the disability account of the
4977 Florida Retirement System Trust Fund.

4978 (n) *Death of retiree or beneficiary.*—Upon the death of a
4979 disabled retiree or beneficiary of the retiree ~~thereof~~ who is
4980 receiving monthly disability benefits under this subsection, the
4981 monthly benefits shall be paid through the last day of the month
4982 of death and shall terminate, or be adjusted, if applicable, as
4983 of that date in accordance with the optional form of benefit
4984 selected at the time of retirement. The department ~~of Management~~
4985 ~~Services~~ may adopt rules necessary to administer this paragraph.

4986 (3) DEATH BENEFITS.—Under the Florida Retirement System
4987 Investment Plan ~~Public Employee Optional Retirement Program:~~

4988 (a) Survivor benefits are ~~shall be~~ payable in accordance
4989 with the following terms and conditions:

4990 1. To the extent vested, benefits are ~~shall be~~ payable only
4991 to a member's ~~participant's~~ beneficiary or beneficiaries as
4992 designated by the member ~~participant~~ as provided in s.
4993 121.4501(20).

4994 2. Benefits shall be paid by the third-party administrator
4995 or designated approved providers in accordance with the law, the
4996 contracts, and any applicable state board rule or policy.

4997 3. To receive benefits ~~under this subsection~~, the member
4998 ~~participant~~ must be deceased.

4999 (b) In the event of a member's ~~participant's~~ death, all
5000 vested accumulations as described in s. 121.4501(6), less



328098

5001 withholding taxes remitted to the Internal Revenue Service,
5002 shall be distributed, as provided in paragraph (c) or as
5003 described in s. 121.4501(20), as if the member ~~participant~~
5004 retired on the date of death. No other death benefits are ~~shall~~
5005 ~~be~~ available for survivors of members ~~participants~~ under the
5006 ~~Public Employee Optional Retirement Program~~, except for such
5007 benefits, or coverage for such benefits, as are otherwise
5008 provided by law or ~~are~~ separately provided ~~afforded~~ by the
5009 employer, at the employer's discretion.

5010 (c) Upon receipt by the third-party administrator of a
5011 properly executed application for distribution of benefits, the
5012 total accumulated benefit is ~~shall be~~ payable by the third-party
5013 administrator to the member's ~~participant's~~ surviving
5014 beneficiary or beneficiaries, as:

5015 1. A lump-sum distribution payable to the beneficiary or
5016 beneficiaries, or to the deceased member's ~~participant's~~ estate;

5017 2. An eligible rollover distribution, if permitted, on
5018 behalf of the surviving spouse of a deceased member ~~participant~~,
5019 whereby all accrued benefits, plus interest and investment
5020 earnings, are paid from the deceased member's ~~participant's~~
5021 account directly to the custodian of an eligible retirement
5022 plan, as described in s. 402(c)(8)(B) of the Internal Revenue
5023 Code, on behalf of the surviving spouse; or

5024 3. A partial lump-sum payment whereby a portion of the
5025 accrued benefit is paid to the deceased member's ~~participant's~~
5026 surviving spouse or other designated beneficiaries, less
5027 withholding taxes remitted to the Internal Revenue Service, and
5028 the remaining amount is transferred directly to the custodian of
5029 an eligible retirement plan, if permitted, as described in s.



328098

5030 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
5031 surviving spouse. The proportions must be specified by the
5032 member ~~participant~~ or the surviving beneficiary.

5033
5034 This paragraph does not abrogate other applicable provisions of
5035 state or federal law providing for payment of death benefits.

5036 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to
5037 any person under the Florida Retirement System Investment Plan
5038 ~~Public Employee Optional Retirement Program~~, and any
5039 contributions accumulated under the plan ~~such program~~, are not
5040 subject to assignment, execution, attachment, or any legal
5041 process, except for qualified domestic relations orders by a
5042 court of competent jurisdiction, income deduction orders as
5043 provided in s. 61.1301, and federal income tax levies.

5044 Section 31. Section 121.5911, Florida Statutes, is amended
5045 to read:

5046 121.5911 Disability retirement program; qualified status;
5047 rulemaking authority.—It is the intent of the Legislature that
5048 the disability retirement program for members ~~participants~~ of
5049 the Florida Retirement System Investment Plan ~~Public Employee~~
5050 ~~Optional Retirement Program as created in this act~~ must meet all
5051 applicable requirements of federal law for a qualified plan. The
5052 department ~~of Management Services~~ shall seek a private letter
5053 ruling from the Internal Revenue Service on the disability
5054 retirement program ~~for participants of the Public Employee~~
5055 ~~Optional Retirement Program~~. Consistent with the private letter
5056 ruling, the department ~~of Management Services~~ shall adopt ~~any~~
5057 ~~necessary~~ rules necessary ~~required~~ to maintain the qualified
5058 status of the disability retirement program and the Florida



328098

5059 Retirement System Pension ~~defined benefit~~ Plan.

5060 Section 32. Section 121.70, Florida Statutes, is amended to
5061 read:

5062 121.70 Legislative purpose and intent.-

5063 (1) This part provides for a uniform system for funding
5064 benefits provided under the Florida Retirement System Pension
5065 Plan ~~defined benefit program~~ established under part I of this
5066 chapter (referred to in this part as the pension plan ~~defined~~
5067 ~~benefit program~~) and under the Florida Retirement System
5068 Investment Plan ~~Public Employee Optional Retirement Program~~
5069 established under part II of this chapter (referred to in this
5070 part as the investment plan ~~optional retirement program~~). The
5071 Legislature recognizes and declares that the Florida Retirement
5072 System is a single retirement system, consisting of two
5073 retirement plans and other nonintegrated programs. Employees and
5074 employers participating in the Florida Retirement System
5075 collectively shall be responsible for making contributions to
5076 support the benefits provided ~~afforded~~ under both plans. The
5077 employees and ~~As provided in this part,~~ employers participating
5078 ~~in the Florida Retirement System~~ shall make contributions based
5079 upon uniform contribution rates determined as a percentage of
5080 the employee's gross monthly compensation ~~total payroll~~ for the
5081 employee's ~~each~~ class or subclass of Florida Retirement System
5082 membership, irrespective of the ~~which~~ retirement plan in which
5083 the individual employee is enrolled ~~employees may elect~~. This
5084 shall be known as a uniform or blended contribution rate system.

5085 (2) In establishing a uniform contribution rate system, it
5086 is the intent of the Legislature to:

5087 (a) Provide greater stability and certainty in financial



328098

5088 planning and budgeting for Florida Retirement System employers
5089 by eliminating the fiscal instability that would be caused by
5090 dual rates coupled with employee-selected plan participation;

5091 (b) Provide greater fiscal equity and uniformity for system
5092 employers by effectively distributing the financial burden and
5093 benefit of short-term system deficits and surpluses,
5094 respectively, in proportion to total system payroll; and

5095 (c) Allow employees to make their retirement plan selection
5096 decisions free of circumstances that may cause employers to
5097 favor one plan choice over another.

5098 Section 33. Section 121.71, Florida Statutes, is amended to
5099 read:

5100 121.71 Uniform rates; process; calculations; levy.—

5101 (1) In conducting the system actuarial study required under
5102 s. 121.031, the actuary shall follow all requirements specified
5103 ~~thereunder~~ to determine, by Florida Retirement System employee
5104 membership class, the dollar contribution amounts necessary for
5105 the next forthcoming fiscal year for the pension plan ~~defined~~
5106 ~~benefit program~~. In addition, the actuary shall determine, by
5107 Florida Retirement System membership class, based on an estimate
5108 for the next forthcoming fiscal year of the gross compensation
5109 of employees participating in the investment plan ~~optional~~
5110 ~~retirement program~~, the dollar contribution amounts necessary to
5111 make the allocations required under ss. 121.72 and 121.73. For
5112 each employee membership class and subclass, the actuarial study
5113 must ~~shall~~ establish a uniform rate necessary to fund the
5114 benefit obligations under both Florida Retirement System
5115 retirement plans by dividing the sum of total dollars required
5116 by the estimated gross compensation of members in both plans.



328098

5117 (2) Based on the uniform rates set forth in subsections
5118 subsection (3), (4), and (5), employees and employers shall make
5119 monthly contributions to the Division of Retirement as required
5120 in s. 121.061(1), which shall initially deposit the funds into
5121 the Florida Retirement System Contributions Clearing Trust Fund.
5122 A change in a contribution rate is effective the first day of
5123 the month for which a full month's employer and employee
5124 contribution may be made on or after the beginning date of the
5125 change. Beginning July 1, 2011, each employee shall contribute
5126 the contributions required in subsection (3). The employer shall
5127 deduct the contribution from the employee's monthly salary, and
5128 the contribution shall be submitted to the division. These
5129 contributions shall be reported as employer-paid employee
5130 contributions, and credited to the account of the employee. The
5131 contributions shall be deducted from the employee's salary
5132 before the computation of applicable federal taxes and treated
5133 as employer contributions under 26 U.S.C. s. 414(h) (2). The
5134 employer specifies that the contributions, although designated
5135 as employee contributions, are being paid by the employer in
5136 lieu of contributions by the employee. The employee does not
5137 have the option of choosing to receive the contributed amounts
5138 directly instead of having them paid by the employer to the
5139 plan. Such contributions are mandatory and each employee is
5140 considered to have consented to payroll deductions. Payment of
5141 an employee's salary or wages, less the contribution, is a full
5142 and complete discharge and satisfaction of all claims and
5143 demands for the service rendered by employees during the period
5144 covered by the payment, except their claims to the benefits to
5145 which they may be entitled under this chapter.



328098

5146 (3) Required employee retirement contribution rates for
5147 each membership class and subclass of the Florida Retirement
5148 System for both retirement plans are as follows:

5149

<u>Membership Class</u>	<u>Percentage of Gross</u> <u>Compensation,</u> <u>Effective July 1, 2011</u>
-------------------------	---

5150

<u>Regular Class</u>	<u>3.00%</u>
----------------------	--------------

5151

<u>Special Risk Class</u>	<u>3.00%</u>
---------------------------	--------------

5152

<u>Special Risk</u>	<u>3.00%</u>
---------------------	--------------

Administrative

Support Class

5153

<u>Elected Officers' Class-</u>	<u>3.00%</u>
---------------------------------	--------------

Legislators, Governor,

Lt. Governor,

Cabinet Officers,

State Attorneys,

Public Defenders

5154

<u>Elected Officers' Class-</u>	<u>3.00%</u>
---------------------------------	--------------

Justices, Judges

5155

<u>Elected Officers' Class-</u>	<u>3.00%</u>
---------------------------------	--------------

County Elected Officers

5156



328098

Senior Management Service 3.00%
Class

5157

DROP 0.00%

5158

5159 (4)~~(3)~~ Required employer retirement contribution rates for
 5160 each membership class and subclass of the Florida Retirement
 5161 System for both retirement plans are as follows:

5162

Membership Class	Percentage of Gross Compensation, Effective July 1, <u>2011</u> 2009	Percentage of Gross Compensation, Effective July 1, <u>2012</u> 2010
------------------	--	--

5163

5164

Regular Class	<u>3.28%</u> 8.69%	<u>3.28%</u> 9.63%
---------------	-------------------------------	-------------------------------

5165

Special Risk Class	<u>10.21%</u> 19.76%	<u>10.21%</u> 22.11%
--------------------	---------------------------------	---------------------------------

5166

Special Risk Administrative Support Class	<u>4.07%</u> 11.39%	<u>4.07%</u> 12.10%
---	--------------------------------	--------------------------------

5167

Elected Officers' Class— Legislators, Governor, Lt. Governor,	<u>7.02%</u> 13.32%	<u>7.02%</u> 15.20%
---	--------------------------------	--------------------------------



328098

5168	Cabinet Officers, State Attorneys, Public Defenders				
	Elected Officers' Class- Justices, Judges	<u>9.78%</u>	18.40%	<u>9.78%</u>	20.65%
5169					
	Elected Officers' Class- County Elected Officers	<u>9.27%</u>	15.37%	<u>9.27%</u>	17.50%
5170					
	Senior Management <u>Service</u> Class	<u>4.81%</u>	11.96%	<u>4.81%</u>	13.43%
5171					
	DROP	<u>3.31%</u>	9.80%	<u>3.31%</u>	11.14%

5172
 5173
 5174 (5) In order to address unfunded actuarial liabilities of
 5175 the system, the required employer retirement contribution rates
 5176 for each membership class and subclass of the Florida Retirement
 5177 System for both retirement plans are as follows:

5178					
5179					
5180					
5181					
5182					
5183					
	<u>Membership Class</u>	<u>Percentage of</u>		<u>Percentage of</u>	
		<u>Gross</u>		<u>Gross</u>	
		<u>Compensation,</u>		<u>Compensation,</u>	



328098

	<u>Effective</u> <u>July 1, 2011</u>	<u>Effective</u> <u>July 1, 2012</u>
5184		
5185		
5186		
5187		
5188		
5189		
5190		
5191		
5192		
5193		
5194		
5195		
5196		
5197		
5198		
5199		
5200		
5201		
5202		
5203		
5204	<u>Regular Class</u>	<u>0.49%</u> <u>2.16%</u>
5205		
5206	<u>Special Risk Class</u>	<u>2.75%</u> <u>8.21%</u>
	<u>Special Risk Administrative</u>	<u>0.83%</u> <u>21.40%</u>



328098

5207	<u>Support Class</u>		
	<u>Elected Officers' Class-</u>	<u>0.88%</u>	<u>21.76%</u>
	<u>Legislators, Governor,</u>		
	<u>Lt. Governor,</u>		
	<u>Cabinet Officers,</u>		
	<u>State Attorneys,</u>		
	<u>Public Defenders</u>		
5208			
	<u>Elected Officers' Class-</u>	<u>0.77%</u>	<u>12.86%</u>
	<u>Justices, Judges</u>		
5209			
	<u>Elected Officers' Class-</u>	<u>0.73%</u>	<u>22.05%</u>
	<u>County Elected Officers</u>		
5210			
	<u>Senior Management Service</u>	<u>0.32%</u>	<u>10.51%</u>
	<u>Class</u>		
5211			
	<u>DROP</u>	<u>0.00%</u>	<u>6.36%</u>
5212			
5213	<u>(6) If a member is reported under an incorrect membership</u>		
5214	<u>class and the amount of contributions reported and remitted are</u>		
5215	<u>less than the amount required, the employer shall owe the</u>		
5216	<u>difference, plus the delinquent fee, of 1 percent for each</u>		
5217	<u>calendar month or part thereof that the contributions should</u>		
5218	<u>have been paid. The delinquent assessment may not be waived. If</u>		
5219	<u>the contributions reported and remitted are more than the amount</u>		
5220	<u>required, the employer shall receive a credit to be applied</u>		
5221	<u>against future contributions owed.</u>		



328098

5222 ~~(7)-(4)~~ The state actuary shall recognize and use an
5223 appropriate level of available excess assets of the Florida
5224 Retirement System Trust Fund to offset the difference between
5225 the normal costs of the Florida Retirement System and the
5226 statutorily prescribed contribution rates.

5227 Section 34. Section 121.72, Florida Statutes, is amended to
5228 read:

5229 121.72 Allocations to investment plan member ~~optional~~
5230 ~~retirement program participant~~ accounts; percentage amounts.—

5231 (1) The allocations established in subsection (4) shall
5232 fund retirement benefits under the investment plan ~~optional~~
5233 ~~retirement program~~ and shall be transferred monthly by the
5234 Division of Retirement from the Florida Retirement System
5235 Contributions Clearing Trust Fund to the third-party
5236 administrator for deposit in each participating employee's
5237 individual account based on the membership class of the
5238 participant.

5239 (2) The allocations are stated as a percentage of each
5240 investment plan member's ~~optional retirement program~~
5241 ~~participant's~~ gross compensation for the calendar month. A
5242 change in a contribution percentage is effective the first day
5243 of the month for which retirement contributions ~~a full month's~~
5244 ~~employer contribution~~ may be made on or after the beginning date
5245 of the change. Contribution percentages may be modified by
5246 general law.

5247 (3) Employer and employee ~~participant~~ contributions to
5248 member ~~participant~~ accounts shall be accounted for separately.
5249 ~~Participant contributions may be made only if expressly~~
5250 ~~authorized by law.~~ Interest and investment earnings on



328098

5251 contributions shall accrue on a tax-deferred basis until
5252 proceeds are distributed.

5253 (4) Effective July 1, 2002, allocations from the Florida
5254 Retirement System Contributions Clearing Trust Fund to
5255 investment plan member ~~optional retirement program participant~~
5256 accounts are ~~shall be~~ as follows:

5257	Membership Class	Percentage of Gross Compensation
5258		
5259		
5260	Regular Class	9.00%
5261	Special Risk Class	20.00%
5262	Special Risk Administrative Support Class	11.35%
5263	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.40%
5264	Elected Officers' Class— Justices, Judges	18.90%
	Elected Officers' Class—	16.20%



328098

County Elected Officers

5265
5266
5267
5268
5269
5270
5271
5272
5273
5274
5275
5276
5277
5278
5279
5280
5281
5282
5283
5284
5285
5286
5287
5288
5289
5290
5291

Senior Management Service Class 10.95%

Section 35. Section 121.73, Florida Statutes, is amended to read:

121.73 Allocations for member ~~optional retirement program~~ ~~participant~~ disability coverage; percentage amounts.—

(1) The allocations established in subsection (3) shall be used to provide disability coverage for members ~~participants~~ in the investment plan ~~optional retirement program~~ and shall be transferred monthly by the Division of Retirement from the Florida Retirement System Contributions Clearing Trust Fund to the disability account of the Florida Retirement System Trust Fund.

(2) The allocations are stated as a percentage of each investment plan member's ~~optional retirement program~~ ~~participant's~~ gross compensation for the calendar month. A change in a contribution percentage is effective the first day of the month for which retirement contributions ~~a full month's~~ ~~employer contribution~~ may be made on or after the beginning date of the change. Contribution percentages may be modified by general law.

(3) Effective July 1, 2002, allocations from the Florida Retirement System Contributions ~~FRS Contribution~~ Clearing Trust Fund to provide disability coverage for members ~~participants~~ in the investment plan ~~optional retirement program~~, and to offset the costs of administering said coverage, are ~~shall be~~ as



328098

5292 follows:

5293

Membership Class	Percentage of Gross Compensation
------------------	----------------------------------

5294

5295

Regular Class	0.25%
---------------	-------

5296

Special Risk Class	1.33%
--------------------	-------

5297

Special Risk Administrative Support Class	0.45%
---	-------

5298

Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
--	-------

5299

Elected Officers' Class— Justices, Judges	0.73%
--	-------

5300

Elected Officers' Class— County Elected Officers	0.41%
---	-------

5301

Senior Management Service Class	0.26%
---------------------------------	-------

5302

5303

5304

Section 36. Section 121.74, Florida Statutes, is amended to



328098

5305 read:

5306 121.74 Administrative and educational expenses.—In addition
5307 to contributions required under ss. ~~ss.~~ 121.71 and 121.73,
5308 effective July 1, 2010, through June 30, 2014, employers
5309 participating in the Florida Retirement System shall contribute
5310 an amount equal to 0.03 percent of the payroll reported for each
5311 class or subclass of Florida Retirement System membership.+
5312 Effective July 1, 2014, the contribution rate shall be 0.04
5313 percent of the payroll reported for each class or subclass of
5314 membership. The amount contributed shall be transferred by the
5315 Division of Retirement from the Florida Retirement System
5316 Contributions Clearing Trust Fund to the State Board of
5317 Administration's Administrative Trust Fund to offset the costs
5318 of administering the investment plan ~~optional retirement program~~
5319 and the costs of providing educational services to members of
5320 the Florida Retirement System ~~participants in the defined~~
5321 ~~benefit program and the optional retirement program.~~ Approval of
5322 the trustees is required before the expenditure of these funds.
5323 Payments for third-party administrative or educational expenses
5324 shall be made only pursuant to the terms of the approved
5325 contracts for such services.

5326 Section 37. Section 121.75, Florida Statutes, is amended to
5327 read:

5328 121.75 Allocation for pension plan ~~defined benefit~~
5329 ~~program.~~—After making the transfers required pursuant to ss.
5330 121.71, 121.72, 121.73, and 121.74, the monthly balance of funds
5331 in the Florida Retirement System Contributions Clearing Trust
5332 Fund shall be transferred to the Florida Retirement System Trust
5333 Fund to pay the costs of providing pension plan ~~defined benefit~~



328098

5334 ~~program~~ benefits and plan administrative costs under the pension
5335 plan defined benefit program.

5336 Section 38. Section 121.77, Florida Statutes, is amended to
5337 read:

5338 121.77 Deductions from member participant accounts.—The
5339 State Board of Administration may authorize the third-party
5340 administrator to deduct reasonable fees and apply appropriate
5341 charges to investment plan member optional retirement program
5342 participant accounts. In no event may shall administrative and
5343 educational expenses exceed the portion of employer
5344 contributions earmarked for such expenses under this part,
5345 except for reasonable administrative charges assessed against
5346 member participant accounts of persons for whom no employer
5347 contributions are made during the calendar quarter. Investment
5348 management fees shall be deducted from member participant
5349 accounts, pursuant to the terms of the contract between the
5350 provider and the board.

5351 Section 39. Section 121.78, Florida Statutes, is amended to
5352 read:

5353 121.78 Payment and distribution of contributions.—

5354 (1) Contributions made pursuant to this part shall be paid
5355 by the employer, including the employee contribution, to the
5356 Division of Retirement by electronic funds transfer no later
5357 than the 5th working day of the month immediately following the
5358 month during which the payroll period ended. Accompanying
5359 payroll data must be transmitted to the division concurrent with
5360 the contributions.

5361 (2) The division, the State Board of Administration, and
5362 the third-party administrator, as applicable, shall ensure that



328098

5363 the contributions are distributed to the appropriate trust funds
5364 or participant accounts in a timely manner.

5365 (3) (a) Employee and employer contributions and accompanying
5366 payroll data received after the 5th working day of the month are
5367 considered late. The employer shall be assessed by the Division
5368 of Retirement a penalty of 1 percent of the contributions due
5369 for each calendar month or part thereof that the contributions
5370 or accompanying payroll data are late. Proceeds from the 1
5371 percent ~~1-percent~~ assessment against contributions made on
5372 behalf of members participants of the pension plan must defined
5373 ~~benefit program shall~~ be deposited in the Florida Retirement
5374 System Trust Fund, and proceeds from the 1-percent assessment
5375 against contributions made on behalf of members participants of
5376 the investment plan optional retirement program shall be
5377 transferred to the third-party administrator for deposit into
5378 member participant accounts, as provided in paragraph (c) ~~(b)~~.

5379 (b) Retirement contributions paid for a prior period shall
5380 be charged a delinquent fee of 1 percent for each calendar month
5381 or part thereof that the contributions should have been paid.
5382 This includes prior period contributions due to incorrect wages
5383 and contributions from an earlier report or wages and
5384 contributions that should have been reported but were not. The
5385 delinquent assessments may not be waived.

5386 (c) ~~(b)~~ If employee contributions or contributions made by
5387 an employer on behalf of members participants of the investment
5388 plan optional retirement program or accompanying payroll data
5389 are not received within the calendar month they are due,
5390 including, but not limited to, contribution adjustments as a
5391 result of employer errors or corrections, and if that



328098

5392 delinquency results in market losses to members ~~participants~~,
5393 the employer shall reimburse each member's ~~participant's~~ account
5394 for market losses resulting from the late contributions. If a
5395 member ~~participant~~ has terminated employment and taken a
5396 distribution, the member ~~participant~~ is responsible for
5397 returning any excess contributions erroneously provided by
5398 employers, adjusted for any investment gain or loss incurred
5399 during the period such excess contributions were in the member's
5400 ~~participant's~~ account. The state board or its designated agent
5401 shall communicate to terminated members ~~participants~~ any
5402 obligation to repay such excess contribution amounts. However,
5403 the state board, its designated agents, the Florida Retirement
5404 System Investment Plan ~~Public Employee Optional Retirement~~
5405 ~~Program~~ Trust Fund, the department, or the Florida Retirement
5406 System Trust Fund may not incur any loss or gain as a result of
5407 an employer's correction of such excess contributions. The
5408 third-party administrator, hired by the state board pursuant to
5409 s. 121.4501(8), shall calculate the market losses for each
5410 affected member ~~participant~~. If contributions made on behalf of
5411 members ~~participants~~ of the investment plan ~~optional retirement~~
5412 ~~program~~ or accompanying payroll data are not received within the
5413 calendar month due, the employer shall also pay the cost of the
5414 third-party administrator's calculation and reconciliation
5415 adjustments resulting from the late contributions. The third-
5416 party administrator shall notify the employer of the results of
5417 the calculations and the total amount due from the employer for
5418 such losses and the costs of calculation and reconciliation. The
5419 employer shall remit to the Division of Retirement the amount
5420 due within 30 working days after the date of the penalty notice



328098

5421 sent by the division. The division shall transfer that amount to
5422 the third-party administrator, which shall deposit proceeds from
5423 the 1-percent assessment and from individual market losses into
5424 member participant accounts, as appropriate. The state board may
5425 adopt rules to administer the provisions regarding late
5426 contributions, late submission of payroll data, the process for
5427 reimbursing member participant accounts for resultant market
5428 losses, and the penalties charged to the employers.

5429 (d) If employee contributions reported by an employer on
5430 behalf of members are reduced as a result of employer errors or
5431 corrections, and the member has terminated employment and taken
5432 a refund or distribution, the employer shall be billed and is
5433 responsible for recovering from the member any excess
5434 contributions erroneously provided by the employer.

5435 (e) ~~(e)~~ Delinquency fees specified in paragraph (a) may be
5436 waived by the division of Retirement, with regard to pension
5437 plan defined benefit program contributions, and by the state
5438 board, with regard to investment plan ~~optional retirement~~
5439 program contributions, only if, in the opinion of the division
5440 or the board, as appropriate, exceptional circumstances beyond
5441 the employer's control prevented remittance by the prescribed
5442 due date notwithstanding the employer's good faith efforts to
5443 effect delivery. Such a waiver of delinquency may be granted an
5444 employer only once each plan state fiscal year.

5445 (f) If the employer submits excess employer or employee
5446 contributions, the employer shall receive a credit to be applied
5447 against future contributions owed. The employer is responsible
5448 for reimbursing the member for any excess contributions
5449 submitted if any return of such an erroneous excess pretax



328098

5450 contribution by the program is made within 1 year after making
5451 erroneous contributions or such other period allowed under
5452 applicable Internal Revenue guidance.

5453 (g)~~(d)~~ If contributions made by an employer on behalf of
5454 members ~~participants~~ in the investment plan ~~optional retirement~~
5455 ~~program~~ are delayed in posting to member ~~participant~~ accounts
5456 due to acts of God beyond the control of the Division of
5457 Retirement, the state board, or the third-party administrator,
5458 as applicable, market losses resulting from the late
5459 contributions are not payable to the members ~~participants~~.

5460 Section 40. Paragraph (a) of subsection (4) and paragraph
5461 (b) of subsection (5) of section 1012.875, Florida Statutes, are
5462 amended, and subsection (7) is added to that section, to read:

5463 1012.875 State Community College System Optional Retirement
5464 Program.—Each community college may implement an optional
5465 retirement program, if such program is established therefor
5466 pursuant to s. 1001.64(20), under which annuity or other
5467 contracts providing retirement and death benefits may be
5468 purchased by, and on behalf of, eligible employees who
5469 participate in the program, in accordance with s. 403(b) of the
5470 Internal Revenue Code. Except as otherwise provided herein, this
5471 retirement program, which shall be known as the State Community
5472 College System Optional Retirement Program, may be implemented
5473 and administered only by an individual community college or by a
5474 consortium of community colleges.

5475 (4) (a) 1. Through June 30, 2011, each college must
5476 contribute on behalf of each program member ~~participant~~ an
5477 amount equal to 10.43 percent of the employee's ~~participant's~~
5478 gross monthly compensation.



328098

5479 2. Effective July 1, 2011, each member shall contribute an
5480 amount equal to the employee contribution required under s.
5481 121.71(3). The employer shall contribute on behalf of each
5482 program member an amount equal to the difference between 10.43
5483 percent of the employee's gross monthly compensation and the
5484 employee's required contribution based on the employee's gross
5485 monthly compensation.

5486 3. The college shall deduct an amount approved by the
5487 district board of trustees of the college to provide for the
5488 administration of the optional retirement program. Payment of
5489 this contribution must be made ~~either~~ directly by the college or
5490 through the program administrator to the designated company
5491 contracting for payment of benefits to the program member
5492 participant.

5493 (5)

5494 (b) Benefits are payable under the optional retirement
5495 program to program participants or their beneficiaries, and ~~the~~
5496 ~~benefits must be~~ paid only by the designated company in
5497 accordance with the terms of the contracts applicable to the
5498 program participant. Benefits shall accrue in individual
5499 accounts that are participant-directed, portable, and funded by
5500 employer and employee contributions and the earnings thereon.
5501 Benefits funded by employer and employee contributions are
5502 payable in accordance with the following terms and conditions:

5503 1. Benefits shall be payable only to a participant, to his
5504 or her beneficiaries, or to his or her estate, as designated by
5505 the participant.

5506 2. Benefits shall be paid by the provider company or
5507 companies in accordance with the law, the provisions of the



328098

5508 contract, and any applicable employer rule or policy.

5509 3. In the event of a participant's death, moneys
5510 accumulated by, or on behalf of, the participant, less
5511 withholding taxes remitted to the Internal Revenue Service, if
5512 any, shall be distributed to the participant's designated
5513 beneficiary or beneficiaries, or to the participant's estate, as
5514 if the participant retired on the date of death as provided in
5515 paragraph (d). No other death benefits are ~~shall be~~ available
5516 for survivors of participants under the optional retirement
5517 program except for such benefits, or coverage for such benefits,
5518 as are separately afforded by the employer at the employer's
5519 discretion.

5520 (7) Benefits, including employee contributions, are not
5521 payable for employee hardships, unforeseeable emergencies,
5522 loans, medical expenses, educational expenses, purchase of a
5523 principal residence, payments necessary to prevent eviction or
5524 foreclosure on an employee's principal residence, or any other
5525 reason before termination from all employment relationships with
5526 participating employers for 3 calendar months.

5527 Section 41. (1) Effective upon this act becoming a law, the
5528 State Board of Administration and the Department of Management
5529 Services shall request, as soon as practicable, a determination
5530 letter and private letter ruling from the United States Internal
5531 Revenue Service. If the United States Internal Revenue Service
5532 refuses to act upon a request for a private letter ruling, then
5533 a legal opinion from a qualified tax attorney or firm may be
5534 substituted for such private letter ruling.

5535 (2) If the board or the department receives notification
5536 from the United States Internal Revenue Service that this act or



328098

5537 any portion of this act will cause the Florida Retirement
5538 System, or a portion thereof, to be disqualified for tax
5539 purposes under the Internal Revenue Code, then the portion that
5540 will cause the disqualification does not apply. Upon receipt of
5541 such notice, the state board and the department shall notify the
5542 presiding officers of the Legislature.

5543 Section 42. The Legislature finds that a proper and
5544 legitimate state purpose is served when employees and retirees
5545 of the state and its political subdivisions, and the dependents,
5546 survivors, and beneficiaries of such employees and retirees, are
5547 extended the basic protections afforded by governmental
5548 retirement systems. These persons must be provided benefits that
5549 are fair and adequate and that are managed, administered, and
5550 funded in an actuarially sound manner, as required by s. 14,
5551 Article X of the State Constitution and part VII of chapter 112,
5552 Florida Statutes. Therefore, the Legislature determines and
5553 declares that this act fulfills an important state interest.

5554 Section 43. For the 2011-2012 fiscal year, the sums of
5555 \$207,070 of recurring funds and \$31,184 of nonrecurring funds
5556 from the Florida Retirement System Operating Trust Fund are
5557 appropriated to, and four full-time equivalent positions are
5558 authorized for, the Division of Retirement within the Department
5559 of Management Services for the purpose of implementing this act.

5560 Section 44. Except as otherwise expressly provided in this
5561 act and except for this section, which shall take effect upon
5562 this act becoming a law, this act shall take effect July 1,
5563 2011.

5564
5565 ===== T I T L E A M E N D M E N T =====



328098

5566 And the title is amended as follows:

5567 Delete everything before the enacting clause
5568 and insert:

5569 A bill to be entitled

5570 An act relating to retirement; amending ss. 110.123,
5571 112.0801, 112.363, 112.65, and 121.011, F.S.;
5572 conforming provisions to changes made by the act;
5573 amending s. 121.021, F.S.; revising definitions;
5574 amending s. 121.051, F.S.; requiring that a local
5575 governmental entity or the governing body of a charter
5576 school or charter technical career center make certain
5577 elections regarding benefits at the time the entity or
5578 governing body joins the Florida Retirement System;
5579 requiring employee retirement contributions; providing
5580 that employer-paid employee contributions are subject
5581 to certain taxes; amending s. 121.0515, F.S.;
5582 redefining membership in the Special Risk Class;
5583 redefining criteria for Special Risk Class membership;
5584 providing for employee contributions to be used, if
5585 applicable, when purchasing credit for past service;
5586 amending s. 121.052, F.S., relating to the membership
5587 class of elected officers; conforming provisions to
5588 changes made by the act; requiring member
5589 contributions; providing for a refund of contributions
5590 under certain circumstances for an officer who leaves
5591 office; providing that a member who obtains a refund
5592 of contributions waives certain rights under the
5593 Florida Retirement System; amending s. 121.053, F.S.;
5594 clarifying the employer contributions required for



328098

5595 Elected Officers' Class members who participate in the
5596 Deferred Retirement Option Program; amending s.
5597 121.055, F.S., relating to the Senior Management
5598 Service Class; conforming provisions to changes made
5599 by the act; requiring employee contributions;
5600 providing for a refund of contributions under certain
5601 circumstances for a member who terminates employment;
5602 providing that a member who obtains a refund of
5603 contributions waives certain rights under the Florida
5604 Retirement System; limiting the payment of benefits
5605 prior to a participant's termination of employment;
5606 amending s. 121.061, F.S.; conforming provisions to
5607 changes made by the act; amending s. 121.071, F.S.;
5608 requiring employer and employee contributions to the
5609 retirement system; providing for a refund of
5610 contributions under certain circumstances following
5611 termination of employment; prohibiting such refund if
5612 an approved qualified domestic relations order is
5613 filed against the participant's retirement account;
5614 providing that a member who obtains a refund of
5615 contributions waives certain rights under the Florida
5616 Retirement System; requiring repayment plus interest
5617 of an invalid refund; amending s. 121.081, F.S.;
5618 providing and revising requirements for contributions
5619 for prior service performed on or after a certain
5620 date; amending s. 121.091, F.S.; modifying the early
5621 retirement benefit calculation for those members
5622 retiring on or after a certain date or before the
5623 normal retirement date to reflect the change in normal



328098

5624 retirement age; revising provisions relating to
5625 disability retirement for judges; providing for the
5626 refund of accumulated contributions if a member's
5627 employment is terminated for any reason other than
5628 retirement; revising the interest rate on benefits for
5629 members enrolling in drop after a certain date;
5630 conforming provisions to changes made by the act;
5631 amending s. 121.1001, F.S.; conforming provisions to
5632 changes made by the act; amending s. 121.101, F.S.;
5633 revising the cost-of-living adjustment depending on
5634 the date of retirement; amending s. 121.1115, F.S.;
5635 conforming provisions to changes made by the act;
5636 amending s. 121.1122, F.S.; conforming provisions to
5637 changes made by the act; amending s. 121.121, F.S.;
5638 requiring that the purchase of creditable service
5639 following an authorized leave of absence be purchased
5640 at the employer and employee contribution rates in
5641 effect during the leave of absence after a certain
5642 date; amending s. 121.125, F.S.; requiring that a
5643 penalty be assessed against certain employers that
5644 fail to pay the required contributions for workers'
5645 compensation; reenacting s. 121.161, F.S.; conforming
5646 provisions to changes made by the act; amending s.
5647 121.182, F.S.; conforming provisions to changes made
5648 by the act; amending s. 121.35, F.S., relating to the
5649 optional retirement program for the State University
5650 System; requiring employee contributions; limiting the
5651 payment of benefits before a participant's termination
5652 of employment; conforming provisions to changes made



328098

5653 by the act; amending s. 121.355, F.S.; conforming
5654 provisions to changes made by the act; amending s.
5655 121.4501, F.S.; changing the name of the Public
5656 Employee Optional Retirement Program to the Florida
5657 Retirement System Investment Plan; requiring members
5658 to make certain contributions to the plan; revising
5659 and providing definitions; revising the benefit
5660 commencement age for a member enrolled on or after a
5661 certain date; providing for contribution adjustments
5662 as a result of employer errors or corrections;
5663 requiring an employer to receive a credit for excess
5664 contributions and to reimburse an employee for excess
5665 contributions, subject to certain limitations;
5666 providing for a pension plan participant to retain his
5667 or her prior plan choice following a return to
5668 employment; prohibiting a retiree who is reemployed
5669 from renewing membership in the plan; limiting certain
5670 refunds of contributions which exceed the amount that
5671 would have accrued had the member remained in the
5672 defined benefit program; providing certain
5673 requirements and limitations with respect to
5674 contributions; clarifying that participant and
5675 employer contributions are earmarked for specified
5676 purposes; providing duties of the third-party
5677 administrator; providing that a member is fully and
5678 immediately vested with respect to employee
5679 contributions paid by the member; providing for the
5680 forfeiture of nonvested employer contributions and
5681 service credit under certain circumstances; conforming



328098

5682 provisions to changes made by the act; amending s.
5683 121.4502, F.S.; changing the name of the Public
5684 Employee Optional Retirement Program Trust Fund to the
5685 Florida Retirement System Investment Plan Trust Fund;
5686 amending s. 121.4503, F.S.; providing for the deposit
5687 of employee contributions into the Florida Retirement
5688 System Contributions Clearing Trust Fund; amending s.
5689 121.571, F.S.; providing requirements for submitting
5690 employee contributions; amending s. 121.591, F.S.;
5691 limiting the payment of benefits prior to a member's's
5692 termination of employment; providing for the
5693 forfeiture of nonvested accumulations and service
5694 credits upon payment of certain vested benefits;
5695 providing that the distribution payment method
5696 selected by the member or beneficiary is final and
5697 irrevocable at the time of benefit distribution;
5698 prohibiting a distribution of employee contributions
5699 if a qualified domestic relations order is filed
5700 against the participant's account; conforming
5701 provisions to changes made by the act; amending s.
5702 121.5911, F.S.; conforming provisions to changes made
5703 by the act; amending s. 121.70, F.S.; revising
5704 legislative intent; amending s. 121.71, F.S.;
5705 requiring that employee contributions be deducted from
5706 the employee's monthly salary, beginning on a
5707 specified date, and treated as employer contributions
5708 under certain provisions of federal law; clarifying
5709 that an employee may not receive such contributions
5710 directly; specifying the required employee retirement



328098

5711 contribution rates for the membership of each
5712 membership class and subclass of the Florida
5713 Retirement System; specifying the required employer
5714 retirement contribution rates for each membership
5715 class and subclass of the Florida Retirement System in
5716 order to address unfunded actuarial liabilities of the
5717 system; requiring an assessment to be imposed if the
5718 employee contributions remitted are less than the
5719 amount required under certain circumstances; providing
5720 for the employer to receive a credit for excess
5721 contributions remitted and to apply such credit
5722 against future contributions owed; amending ss.
5723 121.72, 121.73, 121.74, 121.75, and 121.77, F.S.;
5724 conforming provisions to changes made by the act;
5725 amending s. 121.78, F.S.; requiring that certain fees
5726 be imposed for delinquent payments for retirement
5727 contributions; providing that an employer is
5728 responsible for recovering any refund provided to an
5729 employee in error; revising the terms of an authorized
5730 waiver of delinquency; requiring an employer to
5731 receive a credit for excess contributions and to
5732 reimburse an employee for excess contributions,
5733 subject to certain limitations; amending s. 1012.875,
5734 F.S.; requiring employer and employee contributions
5735 for members of the State Community College System
5736 Optional Retirement Program on a certain date;
5737 limiting the payment of benefits prior to a
5738 participant's termination of employment; requiring the
5739 State Board of Administration and the Department of



328098

5740 Management Services to request a determination letter
5741 and private letter ruling from the United States
5742 Internal Revenue Service; providing legislative
5743 findings; providing that the act fulfills an important
5744 state interest; providing appropriations to and
5745 authorizing additional positions for the Division of
5746 Retirement within the Department of Management
5747 Services; providing effective dates.