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1 A bill to be entitled
2 An act relating to retirement; amending ss. 110.123,
3 112.0801, 112.363, and 112.65, F.S.; conforming
4 provisions to changes made by the act; amending s.
5 121.011, F.S.; requiring employee and employer
6 contributions to the retirement system by a certain
7 date; amending s. 121.021, F.S.; redefining the terms
8 "system," "prior service," "compensation," "average
9 final compensation," "normal retirement date,"
10 "termination," "benefit," and "payee"; defining the
11 term "division"; amending s. 121.051, F.S.; conforming
12 provisions to changes made by the act; amending s.
13 121.0515, F.S.; providing that special risk employee
14 contributions be used, if applicable, when purchasing
15 credit for past service; conforming a cross-reference;
16 amending s. 121.052, F.S., relating to the membership
17 class of elected officers; conforming provisions to
18 changes made by the act; providing for a refund of
19 contributions under certain circumstances for an
20 officer who leaves office; prohibiting such refund if
21 an approved qualified domestic relations order is
22 filed against the member's retirement account;
23 providing that a member who obtains a refund of
24 contributions waives certain rights under the Florida
25 Retirement System; conforming a cross-reference;
26 amending s. 121.053, F.S.; conforming provisions to
27 changes made by the act; amending s. 121.055, F.S.,
28 relating to the Senior Management Service Class;
29 conforming provisions to changes made by the act;

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30 providing for refunds of employee refunds; prohibiting
31 a refund of retirement contributions if an approved
32 qualified domestic relations order is filed against
33 the member's retirement account; providing that a
34 member who obtains a refund of contributions waives
35 certain rights under the Florida Retirement System;
36 requiring employee and employer contributions for
37 members in the Senior Management Service Optional
38 Annuity Program after a certain date; limiting the
39 payment of benefits before a member's termination of
40 employment; amending s. 121.071, F.S.; requiring
41 employee and employer contributions to the retirement
42 system beginning on a certain date; limiting the
43 payment of benefits before a member's termination of
44 employment; requiring repayment plus interest of an
45 invalid refund; amending s. 121.081, F.S.; providing
46 requirements for contributions for prior service
47 performed on or after a certain date; amending s.
48 121.091, F.S.; conforming a cross-reference; providing
49 for refunds of employee refunds; limiting the payment
50 of benefits before a member's termination of
51 employment; prohibiting a refund of retirement
52 contributions if an approved qualified domestic
53 relations order is filed against the member's
54 retirement account; providing that a member who
55 obtains a refund of contributions waives certain
56 rights under the Florida Retirement System; revising
57 the interest rate accruing on DROP benefits after a
58 certain date; conforming provisions to changes made by

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59 the act; amending s. 121.1001, F.S.; conforming
60 provisions to changes made by the act; amending s.
61 121.101, F.S.;. revising the cost-of-living adjustment
62 depending on the date of retirement; amending s.
63 121.121, F.S., relating to the purchase of creditable
64 service following an authorized leave of absence;
65 requiring that service credit be purchased at the
66 employee and employer contribution rates in effect
67 during the leave of absence; reducing the interest
68 rate on benefits payable under the Deferred Retirement
69 Option Program for employees hired after a certain
70 date; amending s. 121.122, F.S.; providing for renewed
71 membership in the retirement system for retirees who
72 are reemployed after a certain date; excluding
73 retirees of the Elected Officers' Class or the Senior
74 Management Service Class; specifying requirements and
75 limitations; amending s. 121.125, F.S.; conforming
76 provisions to changes made by the act; assessing a
77 penalty against employers for contributions not paid
78 after a member becomes eligible for workers'
79 compensation; amending s. 121.35, F.S., relating to
80 the optional retirement program for the State
81 University System; conforming provisions to changes
82 made by the act; requiring employee and employer
83 contributions for members participating in the
84 optional retirement program after a certain date;
85 deleting certain requirements governing employer
86 contributions to conform to changes made by the act;
87 prohibiting certain benefits before termination from

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88 employment; conforming cross-references; amending s.
89 121.355, F.S.; conforming provisions to changes made
90 by the act; amending s. 121.4501, F.S.; changing the
91 name of the Public Employee Optional Retirement
92 Program to the Florida Retirement System Investment
93 Plan; limiting the option of enrolling in the State
94 Retirement System's defined benefit program or defined
95 contribution program to public employees employed
96 before a certain date; requiring certain public
97 employees employed on or after a certain date to
98 enroll in the investment plan; providing exceptions;
99 requiring that plan members make contributions to the
100 plan based on the employee's membership class;
101 revising definitions; revising the benefit
102 commencement age for members of the special risk
103 class; providing for contribution adjustments as a
104 result of errors or corrections; deleting obsolete
105 provisions relating to the 2002 optional transfer of
106 public employees from the pension plan to the
107 investment plan; providing for past employees who
108 reenter the system; requiring an employer to receive a
109 credit for excess contributions and to reimburse an
110 employee for excess contributions, subject to certain
111 limitations; providing for a retiree to retain his or
112 her prior plan choice following a return to
113 employment; limiting certain refunds of contributions
114 which exceed the amount that would have accrued had
115 the member remained in the pension plan; providing
116 certain requirements and limitations with respect to

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117 contributions; clarifying that employee and employer
118 contributions are earmarked for specified purposes;
119 providing duties of the third-party administrator;
120 providing that a member is vested immediately with
121 respect to employee contributions paid by the
122 employee; providing for the forfeiture of nonvested
123 employer contributions and service credit based on
124 years of service; amending s. 121.4502, F.S.;
125 conforming provisions to changes made by the act;
126 amending s. 121.4503, F.S.; providing for the deposit
127 of employee contributions into the Florida Retirement
128 System Contributions Clearing Trust Fund; amending s.
129 121.571, F.S.; conforming provisions to changes made
130 by the act; providing requirements for submitting
131 employee contributions; amending s. 121.591, F.S.;
132 prohibiting the payment of certain benefits before
133 termination of employment; providing for the
134 forfeiture of nonvested accumulations upon payment of
135 certain vested benefits; providing that the
136 distribution payment method selected by the member or
137 beneficiary is irrevocable at the time of
138 distribution; prohibiting a distribution of employee
139 contributions if a qualified domestic relations order
140 is filed against the member's account; providing for
141 the distribution of an employee's contributions if the
142 employee dies before being vested; conforming
143 provisions to changes made by the act; amending ss.
144 121.5911 and 121.70, F.S.; conforming provisions to
145 changes made by the act; amending s. 121.71, F.S.;

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146 providing for employee contributions to be deducted
147 from the employee's monthly salary, beginning on a
148 specified date, and treated as employer contributions
149 under certain provisions of federal law; clarifying
150 that an employee may not receive such contributions
151 directly; specifying the required contribution rate
152 for all members of the Florida Retirement System;
153 specifying the required employer retirement
154 contribution rates for each membership class and
155 subclass of the system in order to address unfunded
156 actuarial liabilities of the system; requiring an
157 assessment to be imposed if the employee contributions
158 remitted are less than the amount required; providing
159 for the employer to receive a credit for excess
160 contributions remitted; conforming cross-references;
161 amending s. 121.72, F.S.; revising certain
162 requirements governing allocations to optional
163 retirement program member accounts; conforming cross-
164 references; amending s. 121.73, F.S., relating to
165 disability coverage for members of the optional
166 retirement program; conforming provisions to changes
167 made by the act; amending ss. 121.74, 121.75, and
168 121.77, F.S.; conforming provisions to changes made by
169 the act; conforming cross-references; amending s.
170 121.78, F.S.; revising certain requirements for
171 administering the payment and distribution of
172 contributions; requiring that certain fees be imposed
173 for delinquent payment; providing that an employer is
174 responsible for recovering any refund provided to an

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175 employee in error; revising the terms of an authorized
176 waiver of delinquency; requiring an employer to
177 receive a credit for excess contributions and to
178 reimburse an employee for excess contributions,
179 subject to certain limitations; amending s. 175.121,
180 F.S.; specifying other sources available to pay the
181 expenses of the Department of Revenue for
182 administering firefighters' pension plans; amending s.
183 175.341, F.S.; conforming provisions to changes made
184 by the act; amending s. 185.10, F.S.; specifying other
185 sources available to pay the expenses of the
186 department for administering police officers' pension
187 plans; amending s. 185.23, F.S.; conforming provisions
188 to changes made by the act; amending s. 250.22, F.S.;
189 providing that retirement pay for members of the
190 Florida National Guard is determined on the date of
191 retirement and may not be recomputed to reflect an
192 increase in basic pay; directing the Division of
193 Retirement to annually adjust retirement pay after a
194 certain date; amending s. 1012.875, F.S.; requiring
195 employee and employer contributions for members of the
196 State Community College System Optional Retirement
197 Program on a certain date; conforming cross-
198 references; providing that the act fulfills an
199 important state interest; providing a directive to the
200 Division of Statutory Revision; requiring the State
201 Board of Administration and the Department of
202 Management Services to request a private letter ruling
203 from the United States Internal Revenue Service

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204 regarding the act; providing an effective date.

205
206 Be It Enacted by the Legislature of the State of Florida:

207
208 Section 1. Paragraph (g) of subsection (2) of section
209 110.123, Florida Statutes, is amended to read:

210 110.123 State group insurance program.—

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

212 (g) "Retired state officer or employee" or "retiree" means
213 a any state, or state university, officer or employee who
214 retires under a state retirement system or a state optional
215 annuity or retirement program or is placed on disability
216 retirement, ~~and~~ who was insured under the state group insurance
217 program at the time of retirement, and who begins receiving
218 retirement benefits immediately after retirement from state or
219 state university office or employment. The term also includes ~~In~~
220 ~~addition to these requirements,~~ any state officer or ~~state~~
221 employee who retires under the investment plan ~~Public Employee~~
222 ~~Optional Retirement Program~~ established under part II of chapter
223 121 ~~shall be considered a "retired state officer or employee" or~~
224 ~~"retiree" as used in this section~~ if he or she:

225 1. Meets the age and service requirements to qualify for
226 normal retirement as set forth in s. 121.021(29); or

227 2. Has attained the age specified by s. 72(t)(2)(A)(i) of
228 the Internal Revenue Code and has 6 years of creditable service.

229 Section 2. Section 112.0801, Florida Statutes, is amended
230 to read:

231 112.0801 Group insurance; participation by retired
232 employees.—

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233 ~~(1)~~ Any state agency, county, municipality, special
234 district, community college, or district school board that ~~which~~
235 provides life, health, accident, hospitalization, or annuity
236 insurance, or all of any kinds of such insurance, for its
237 officers and employees and their dependents upon a group
238 insurance plan or self-insurance plan shall allow all former
239 personnel who ~~have~~ retired before ~~prior to~~ October 1, 1987, as
240 well as those who retire on or after such date, and their
241 eligible dependents, the option of continuing to participate in
242 the ~~such~~ group insurance plan or self-insurance plan. Retirees
243 and their eligible dependents shall be offered the same health
244 and hospitalization insurance coverage as is offered to active
245 employees at a premium cost of no more than the premium cost
246 applicable to active employees. For ~~the~~ retired employees and
247 their eligible dependents, the cost of ~~any such~~ continued
248 participation ~~in any type of plan or any of the cost thereof~~ may
249 be paid by the employer or by the retired employees. To
250 determine health and hospitalization plan costs, the employer
251 shall commingle the claims experience of the retiree group with
252 the claims experience of the active employees; and, for other
253 types of coverage, the employer may commingle the claims
254 experience of the retiree group with the claims experience of
255 active employees. Retirees covered under Medicare may be
256 experience-rated separately from the retirees not covered by
257 Medicare and from active employees if, ~~provided that~~ the total
258 premium does not exceed that of the active group and coverage is
259 basically the same as for the active group.

260 ~~(2)~~ For purposes of this section, the term "retiree" has
261 the same meaning as in s. 110.123(2) ~~means any officer or~~

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262 ~~employee who retires under a state retirement system or a state~~
263 ~~optional annuity or retirement program or is placed on~~
264 ~~disability retirement and who begins receiving retirement~~
265 ~~benefits immediately after retirement from employment. In~~
266 ~~addition to these requirements, any officer or employee who~~
267 ~~retires under the Public Employee Optional Retirement Program~~
268 ~~established under part II of chapter 121 shall be considered a~~
269 ~~"retired officer or employee" or "retiree" as used in this~~
270 ~~section if he or she:~~

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

273 ~~(b) Has attained the age specified by s. 72(t)(2)(A)(i) of~~
274 ~~the Internal Revenue Code and has 6 years of creditable service.~~

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

278 112.363 Retiree health insurance subsidy.—

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

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

285 1. For a member participant of the investment plan Public
286 ~~Employee Optional Retirement program~~ established under part II
287 of chapter 121, the member participant meets the age or service
288 requirements to qualify for normal retirement as set forth in s.
289 121.021(29) and meets the definition of retiree in s.
290 121.4501(2).

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291 2. For a member of the pension plan ~~Florida Retirement~~
292 ~~System defined benefit program~~, or any employee who maintains
293 creditable service under ~~both~~ the pension plan and the
294 investment plan defined benefit program ~~and the Public Employee~~
295 ~~Optional Retirement program~~, the member begins drawing
296 retirement benefits from the pension plan ~~defined benefit~~
297 ~~program of the Florida Retirement System~~.

298 (c)~~1~~. Effective July 1, 2001, any person retiring on or
299 after that ~~such~~ date as a member of the Florida Retirement
300 System, including a member ~~any participant~~ of the investment
301 plan ~~defined contribution program~~ administered pursuant to part
302 II of chapter 121, must have satisfied the vesting requirements
303 for his or her membership class under the pension plan ~~Florida~~
304 ~~Retirement System defined benefit program~~ as administered under
305 part I of chapter 121. However,

306 ~~2. Notwithstanding the provisions of subparagraph 1.,~~ a
307 person retiring due to disability must ~~either~~ qualify for a
308 regular or in-line-of-duty disability benefit as provided in s.
309 121.091(4) or qualify for a disability benefit under a
310 disability plan established under part II of chapter 121, as
311 appropriate.

312 (3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

313 (e)1. Beginning July 1, 2001, each eligible retiree of the
314 pension plan ~~defined benefit program~~ of the Florida Retirement
315 System, or, if the retiree is deceased, his or her beneficiary
316 who is receiving a monthly benefit from such retiree's account
317 and who is a spouse, or a person who meets the definition of
318 joint annuitant in s. 121.021~~(28)~~, shall receive a monthly
319 retiree health insurance subsidy payment equal to the number of

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320 years of creditable service, as defined in s. 121.021(~~17~~),
321 completed at the time of retirement multiplied by \$5; however,
322 an ~~no~~ eligible retiree or beneficiary may not receive a subsidy
323 payment of more than \$150 or less than \$30. If there are
324 multiple beneficiaries, the total payment may ~~must~~ not be
325 greater than the payment to which the retiree was entitled. The
326 health insurance subsidy amount payable to any person receiving
327 the retiree health insurance subsidy payment on July 1, 2001,
328 may ~~shall~~ not be reduced solely by operation of this
329 subparagraph.

330 2. Beginning July 1, 2002, each eligible member ~~participant~~
331 of the investment plan under part II of chapter 121 Public
332 ~~Employee Optional Retirement program of the Florida Retirement~~
333 ~~System~~ who has met the requirements of this section, or, if the
334 member ~~participant~~ is deceased, his or her spouse who is the
335 member's ~~participant's~~ designated beneficiary, shall receive a
336 monthly retiree health insurance subsidy payment equal to the
337 number of years of creditable service, as provided in this
338 subparagraph, completed at the time of retirement, multiplied by
339 \$5; however, an ~~no~~ eligible retiree or beneficiary may not
340 receive a subsidy payment of more than \$150 or less than \$30.
341 For purposes of determining a member's ~~participant's~~ creditable
342 service used to calculate the health insurance subsidy, the
343 member's ~~a participant's~~ years of service credit or fraction
344 thereof must ~~shall~~ be based on the member's ~~participant's~~ work
345 year as defined in s. 121.021(~~54~~). Credit must ~~shall~~ be awarded
346 for a full work year if ~~whenever~~ health insurance subsidy
347 contributions have been made ~~as required by law~~ for each month
348 in the member's ~~participant's~~ work year. In addition, all years

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349 of creditable service retained under the Florida Retirement
350 System pension plan must ~~defined benefit program shall~~ be
351 included as creditable service for purposes of this section.
352 Notwithstanding any other provision in this section ~~to the~~
353 ~~contrary~~, the spouse at the time of death is ~~shall be~~ the
354 member's participant's beneficiary unless such member
355 ~~participant~~ has designated a different beneficiary subsequent to
356 the member's participant's most recent marriage.

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

359 112.65 Limitation of benefits.—

360 (1) ESTABLISHMENT OF PROGRAM.—The normal retirement benefit
361 or pension payable to a retiree who becomes a member of a any
362 retirement system or plan and who has not previously
363 participated in such plan, on or after January 1, 1980, may
364 ~~shall~~ not exceed 100 percent of his or her average final
365 compensation. However, ~~nothing contained in this section~~ does
366 not shall apply to supplemental retirement benefits or to
367 pension increases attributable to cost-of-living increases or
368 adjustments. For the purposes of this section, benefits accruing
369 in individual member participant accounts established under the
370 investment plan ~~Public Employee Optional Retirement program~~
371 established in part II of chapter 121 are considered
372 supplemental benefits. As used in this section, the term
373 "average final compensation" means the average of the member's
374 earnings over a period of time which the governmental entity
375 establishes ~~has established~~ by statute, charter, or ordinance.

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

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378 121.011 Florida Retirement System.—

379 (3) PRESERVATION OF RIGHTS.—

380 (h) Effective July 1, 2011, the retirement system shall
381 require employee and employer contributions as provided in s.
382 121.071 and part III of this chapter.

383 Section 6. Subsection (3), paragraph (a) of subsection
384 (19), paragraphs (a) and (b) of subsection (22), subsections
385 (24), (29), (39), (45), (55), and (59) of section 121.021,
386 Florida Statutes, are amended, and subsection (65) is added to
387 that section, to read:

388 121.021 Definitions.—The following words and phrases as
389 used in this chapter have the respective meanings set forth
390 unless a different meaning is plainly required by the context:

391 (3) "Florida Retirement System" or "system" means the
392 general retirement system established by this chapter, ~~to be~~
393 ~~known and cited as the "Florida Retirement System,"~~ including,
394 but not limited to, the defined benefit ~~retirement~~ program
395 administered under ~~the provisions of part I of this part,~~
396 referred to as the "Florida Retirement System Pension Plan" or
397 "pension plan," ~~chapter~~ and the defined contribution ~~retirement~~
398 program ~~known as the Public Employee Optional Retirement Program~~
399 ~~and administered under the provisions of part II of this~~
400 ~~chapter,~~ referred to as the "Florida Retirement System
401 Investment Plan" or "investment plan."

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

403 (a) Service for which the member had credit under one of
404 the existing systems and received a refund of his or her
405 contributions upon termination of employment. Prior service
406 ~~shall also~~ includes ~~include that service between December 1,~~

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407 1970, ~~and the date the system becomes noncontributory~~ for which
408 the member had credit under the Florida Retirement System and
409 received a refund of his or her contributions upon termination
410 of employment.

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

414 (a) Before July 1, 2011, compensation includes ~~shall~~
415 ~~include~~:

416 1. Overtime payments paid from a salary fund.

417 2. Accumulated annual leave payments.

418 3. Payments in addition to the employee's base rate of pay
419 if ~~all~~ the following apply:

420 a. The payments are paid according to a formal written
421 policy that applies to all eligible employees equally;

422 b. The policy provides that payments ~~shall~~ commence by ~~no~~
423 ~~later than~~ the 11th year of employment;

424 c. The payments are paid for as long as the employee
425 continues his or her employment; and

426 d. The payments are paid at least annually.

427 4. Amounts withheld for tax sheltered annuities or deferred
428 compensation programs, or any other type of salary reduction
429 plan authorized under the Internal Revenue Code.

430 5. Payments made in lieu of a permanent increase in the
431 base rate of pay, whether made annually or in 12 or 26 equal
432 payments within a 12-month period, if ~~when~~ the member's base pay
433 is at the maximum of his or her pay range. If ~~When~~ a portion of
434 a member's annual increase raises his or her pay range and the
435 excess is paid as a lump sum payment, the ~~such~~ lump sum payment

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436 is considered ~~shall be~~ compensation for retirement purposes.

437 (b) On or after July 1, 2011, compensation includes:

438 1. Payments in addition to the employee's base rate of pay
439 if the following apply:

440 a. The payments are paid according to a formal written
441 policy that applies to all eligible employees equally;

442 b. The policy provides that payments shall commence by the
443 11th year of employment; and

444 c. The payments are paid at least annually.

445 2. Amounts withheld for tax-sheltered annuities, deferred
446 compensation programs, or any other type of salary reduction
447 plan authorized under the Internal Revenue Code.

448 3. Payments made in lieu of a permanent increase in the
449 base rate of pay, whether made annually or in 12 or 26 equal
450 payments within a 12-month period, if the member's base pay is
451 at the maximum of his or her pay range. If a portion of a
452 member's annual increase raises his or her pay range and the
453 excess is paid as a lump sum payment, such lump sum payment is
454 compensation for retirement purposes.

455 4. Up to 300 hours of overtime payments paid from a salary
456 fund.

457 (c)(b) Under no circumstances shall Compensation for a
458 member participating in the pension plan ~~defined benefit~~
459 ~~retirement program~~ or the investment plan ~~Public Employee~~
460 ~~Optional Retirement Program~~ of the Florida Retirement System may
461 not include:

462 1. Fees paid professional persons for special or particular
463 services or ~~include~~ salary payments made from a faculty practice
464 plan authorized by the Board of Governors of the State

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465 University System for eligible clinical faculty at a college in
466 a state university that has a faculty practice plan; or

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

470 (24) "Average final compensation" means the average of the
471 5 highest fiscal years of compensation for creditable service
472 prior to retirement, termination, or death. For in-line-of-duty
473 disability benefits, if less than 5 years of creditable service
474 have been completed, the term ~~"average final compensation"~~ means
475 the average annual compensation of the total number of years of
476 creditable service. Each year used to calculate the ~~in the~~
477 ~~calculation of~~ average final compensation commences ~~shall~~
478 ~~commence~~ on July 1.

479 (a) Before July 1, 2011:

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

481 a.1. Accumulated annual leave payments, not to exceed 500
482 hours; and

483 b.2. All payments defined as compensation under this
484 section ~~in subsection (22)~~.

485 2.(b) The average final compensation does ~~shall~~ not
486 include:

487 a.1. Compensation paid to professional persons for special
488 or particular services;

489 b.2. Payments for accumulated sick leave made due to
490 retirement or termination;

491 c.3. Payments for accumulated annual leave in excess of 500
492 hours;

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

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494 ~~e.5.~~ Third-party ~~Third party~~ payments made on and after
495 July 1, 1990; or
496 ~~f.6.~~ Fringe benefits, such as ~~(for example,~~ automobile
497 allowances or housing allowances).

498 (b) On or after July 1, 2011:

499 1. The average final compensation includes all payments
500 defined as compensation under this section.

501 2. The average final compensation does not include:

502 a. Compensation paid to professional persons for special or
503 particular services;

504 b. Payments for accumulated sick leave made due to
505 retirement or termination;

506 c. Payments for accumulated annual leave;

507 d. Payments for overtime exceeding 300 hours paid from a
508 salary fund;

509 e. Bonuses;

510 f. Third-party payments made on and after July 1, 1990; or

511 g. Fringe benefits, such as automobile allowances or
512 housing allowances.

513 (29) "Normal retirement date" means the date a member
514 attains normal retirement age and is vested, which is determined
515 as follows:

516 (a) If a Regular Class member, a Senior Management Service
517 Class member, or an Elected Officers' Class member:

518 1. The first day of the month the member completes 6 or
519 more years of creditable service and attains age 62; or

520 2. The first day of the month following the date the member
521 completes 30 years of creditable service, regardless of age.

522 (b) If a Special Risk Class member:

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523 1. The first day of the month the member completes 6 or
524 more years of creditable service in the Special Risk Class and
525 attains age 55;

526 2. The first day of the month following the date the member
527 completes 25 years of creditable service in the Special Risk
528 Class, regardless of age; or

529 3. The first day of the month following the date the member
530 completes 25 years of creditable service and attains age 52,
531 which service may include a maximum of 4 years of military
532 service credit as long as such credit is not claimed under any
533 other system and the remaining years are in the Special Risk
534 Class.

535
536 "Normal retirement age" is attained on the "normal retirement
537 date."

538 (39) (a) "Termination" or "terminated" means ~~occurs~~, except
539 as provided in paragraph (b), that when a member ceases all
540 employment relationships with a participating ~~an~~ employer;;
541 however:

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

551 2. For retirements effective on or after July 1, 2010, if a

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552 member is employed by any such employer within the next 6
553 calendar months, termination shall be deemed not to have
554 occurred. A leave of absence constitutes a continuation of the
555 employment relationship, except that a leave of absence without
556 pay due to disability may constitute termination if such member
557 makes application for and is approved for disability retirement
558 in accordance with s. 121.091(4). The department or state board
559 may require other evidence of termination as it deems necessary.

560 (b) "Termination" or "terminated" means for a member
561 electing to participate in the Deferred Retirement Option
562 Program that occurs when the member program participant ceases
563 all employment relationships with a participating an employer in
564 accordance with s. 121.091(13); however:

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

571 2. For termination dates occurring on or after July 1,
572 2010, if the member participant becomes employed by any such
573 employer within the next 6 calendar months, termination will be
574 deemed not to have occurred, except as provided in s.
575 121.091(13)(b)4.c. A leave of absence constitutes a continuation
576 of the employment relationship.

577 (c) Effective July 1, 2011, "termination" or "terminated"
578 means for a member receiving a refund of employee contributions
579 that the member ceases all employment relationships with a
580 participating employer for 3 calendar months. A leave of absence

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581 for less than 3 calendar months constitutes a continuation of an
582 employment relationship.

583 (45)~~(a)~~ "Vested" or "vesting" means the guarantee that a
584 member is eligible to receive a future retirement benefit upon
585 completion of the required years of creditable service for the
586 employee's class of membership, even though the member may have
587 terminated covered employment before reaching normal or early
588 retirement date. Being vested does not entitle a member to a
589 disability benefit. Provisions governing entitlement to
590 disability benefits are set forth under s. 121.091(4).

591 (a)~~(b)~~ Effective July 1, 2001, and for members initially
592 enrolled before July 1, 2011, a 6-year vesting requirement shall
593 be implemented for the defined benefit program of the Florida
594 Retirement System's pension plan System. Pursuant thereto:

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

599 2. Any member not employed in a regularly established
600 position on July 1, 2001, shall be deemed vested upon completion
601 of 6 years of creditable service if, ~~provided that~~ such member
602 is employed in a covered position for at least 1 work year after
603 July 1, 2001. However, a ~~no~~ member may not ~~shall~~ be required to
604 complete more years of creditable service than would have been
605 required for that member to vest under retirement laws in effect
606 before July 1, 2001.

607 (b) Any member initially enrolled on or after July 1, 2011,
608 is vested upon completion of 10 years of creditable service.

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

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610 periodic, to a member, retiree, or beneficiary, based ~~partially~~
611 ~~or entirely~~ on employer and employee contributions as
612 applicable.

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

615 (65) "Division" means the Division of Retirement in the
616 department.

617 Section 7. Paragraphs (b), (c), and (d) of subsection (2)
618 of section 121.051, Florida Statutes, are amended, present
619 paragraphs (e) and (f) of that subsection are redesignated as
620 subsections (f) and (g), respectively, a new subsection (e) is
621 added to that subsection, and subsection (3) of that section is
622 amended, to read:

623 121.051 Participation in the system.—

624 (2) OPTIONAL PARTICIPATION.—

625 (b)1. The governing body of any municipality, metropolitan
626 planning organization, or special district in the state may
627 elect to participate in the Florida Retirement System upon
628 proper application to the administrator and may cover all ~~or any~~
629 of its units as approved by the Secretary of Health and Human
630 Services and the administrator. The department shall adopt rules
631 establishing procedures ~~provisions~~ for the submission of
632 documents necessary for such application. Before ~~Prior to~~ being
633 approved for participation ~~in the Florida Retirement System~~, the
634 governing body of a ~~any such~~ municipality, metropolitan planning
635 organization, or special district that has a local retirement
636 system must ~~shall~~ submit to the administrator a certified
637 financial statement showing the condition of the local
638 retirement system ~~as of a date~~ within 3 months before ~~prior to~~

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639 the proposed effective date of membership in the Florida
640 Retirement System. The statement must be certified by a
641 recognized accounting firm that is independent of the local
642 retirement system. All required documents ~~necessary for~~
643 ~~extending Florida Retirement System coverage~~ must be received by
644 the department for consideration at least 15 days before ~~prior~~
645 ~~to~~ the proposed effective date of coverage. If the governing
646 body ~~municipality, metropolitan planning organization, or~~
647 ~~special district~~ does not comply with this requirement, the
648 department may require that the effective date of coverage be
649 changed.

650 2. A municipality ~~Any city~~, metropolitan planning
651 organization, or special district that has an existing
652 retirement system covering the employees in the units that are
653 to be brought under the Florida Retirement System may
654 participate only after holding a referendum in which all
655 employees in the affected units have the right to participate.
656 Only those employees electing coverage under the Florida
657 Retirement System by affirmative vote in the said referendum are
658 ~~shall be~~ eligible for coverage under this chapter, and those not
659 participating or electing not to be covered by the Florida
660 Retirement System shall remain in their present systems and are
661 ~~shall not be~~ eligible for coverage under this chapter. After the
662 referendum is held, all future employees are ~~shall be~~ compulsory
663 members of the Florida Retirement System.

664 3. At the time of joining the Florida Retirement System,
665 the governing body of a municipality ~~any city~~, metropolitan
666 planning organization, or special district complying with
667 subparagraph 1. may elect to provide, or not provide, benefits

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668 based on past service of officers and employees as described in
669 s. 121.081(1). However, if such employer elects to provide past
670 service benefits, such benefits must be provided for all
671 officers and employees of its covered group.

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

677 5. Subject to ~~the conditions set forth in~~ subparagraph 6.,
678 the governing body of a ~~any~~ hospital licensed under chapter 395
679 which is governed by the board of a special district as defined
680 in s. 189.403~~(1)~~ or by the board of trustees of a public health
681 trust created under s. 154.07, hereinafter referred to as
682 "hospital district," and which participates in the Florida
683 Retirement System, may elect to cease participation in the
684 system with regard to future employees in accordance with the
685 following procedure:

686 a. No more than 30 days and at least 7 days before
687 adopting a resolution to partially withdraw from the Florida
688 Retirement system and establish an alternative retirement plan
689 for future employees, a public hearing must be held on the
690 proposed withdrawal and proposed alternative plan.

691 b. From 7 to 15 days before such hearing, notice of intent
692 to withdraw, specifying the time and place of the hearing, must
693 be provided in writing to employees of the hospital district
694 proposing partial withdrawal and must be published in a
695 newspaper of general circulation in the area affected, as
696 provided by ss. 50.011-50.031. Proof of publication must ~~of such~~

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697 ~~notice shall~~ be submitted to the department of ~~Management~~
698 ~~Services~~.

699 c. The governing body of a any hospital district seeking to
700 partially withdraw from the system must, before such hearing,
701 have an actuarial report prepared and certified by an enrolled
702 actuary, as defined in s. 112.625~~(3)~~, illustrating the cost to
703 the hospital district of providing, through the retirement plan
704 that the hospital district is to adopt, benefits for new
705 employees comparable to those provided under the ~~Florida~~
706 ~~Retirement~~ system.

707 d. Upon meeting all applicable requirements of this
708 subparagraph, and subject to ~~the conditions set forth in~~
709 subparagraph 6., partial withdrawal from the system and adoption
710 of the alternative retirement plan may be accomplished by
711 resolution ~~duly~~ adopted by the hospital district board. The
712 hospital district board must provide written notice of such
713 withdrawal to the division by mailing a copy of the resolution
714 to the division, postmarked by ~~no later than~~ December 15, 1995.
715 The withdrawal shall take effect January 1, 1996.

716 6. Following the adoption of a resolution under sub-
717 subparagraph 5.d., all employees of the withdrawing hospital
718 district who were members of ~~participants in~~ the ~~Florida~~
719 ~~Retirement~~ system before ~~prior to~~ January 1, 1996, shall remain
720 as members of ~~participants in~~ the system for as long as they are
721 employees of the hospital district, and all rights, duties, and
722 obligations between the hospital district, the system, and the
723 employees ~~shall~~ remain in full force and effect. Any employee
724 who is hired or appointed on or after January 1, 1996, may not
725 participate in the ~~Florida Retirement~~ system, and the

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726 withdrawing hospital district has ~~shall have~~ no obligation to
727 the system with respect to such employees.

728 (c) Employees of public community colleges or charter
729 technical career centers sponsored by public community colleges,
730 designated in s. 1000.21(3), who are members of the Regular
731 Class of the Florida Retirement System and who comply with the
732 criteria set forth in this paragraph and s. 1012.875 may, in
733 lieu of participating in the Florida Retirement System, elect to
734 withdraw from the system altogether and participate in the State
735 Community College System Optional Retirement Program provided by
736 the employing agency under s. 1012.875.

737 1. Through June 30, 2001, the cost to the employer for a
738 benefit under the optional retirement program ~~such annuity~~
739 equals the normal cost portion of the employer retirement
740 contribution which would be required if the employee were a
741 member of the Regular Class pension plan ~~defined benefit~~
742 ~~program~~, plus the portion of the contribution rate required by
743 s. 112.363(8) which would otherwise be assigned to the Retiree
744 Health Insurance Subsidy Trust Fund. Effective July 1, 2001,
745 each employer shall contribute on behalf of each member of
746 ~~participant in~~ the optional program an amount equal to 10.43
747 percent of the employee's ~~participant's~~ gross monthly
748 compensation. The employer shall deduct an amount for the
749 administration of the program. The employer shall contribute an
750 additional amount to the Florida Retirement System Trust Fund
751 equal to the unfunded actuarial accrued liability portion of the
752 Regular Class contribution rate.

753 2. The decision to participate in the ~~an~~ optional
754 retirement program is irrevocable as long as the employee holds

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755 a position eligible for participation, except as provided in
756 subparagraph 3. Any service creditable under the Florida
757 Retirement System is retained after the member withdraws from
758 the system; however, additional service credit in the system may
759 not be earned while a member of the optional retirement program.

760 3. An employee who has elected to participate in the
761 optional retirement program shall have one opportunity, at the
762 employee's discretion, to transfer from the optional retirement
763 program to the ~~defined benefit program of the Florida Retirement~~
764 System's pension plan System or to the investment plan
765 established under part II of this chapter ~~Public Employee~~
766 ~~Optional Retirement Program~~, subject to the terms of the
767 applicable optional retirement program contracts.

768 a. If the employee chooses to move to the investment plan
769 ~~Public Employee Optional Retirement program~~, any contributions,
770 interest, and earnings creditable to the employee under the
771 ~~State Community College System~~ optional retirement program are
772 retained by the employee in the ~~State Community College System~~
773 optional retirement program, and the applicable provisions of s.
774 121.4501(4) govern the election.

775 b. If the employee chooses to move to the pension plan
776 ~~defined benefit program of the Florida Retirement System~~, the
777 employee shall receive service credit equal to his or her years
778 of service under the ~~State Community College System~~ optional
779 retirement program.

780 (I) The cost for such credit is the amount representing the
781 present value of the employee's accumulated benefit obligation
782 for the affected period of service. The cost shall be calculated
783 as if the benefit commencement occurs on the first date the

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784 employee becomes eligible for unreduced benefits, using the
785 discount rate and other relevant actuarial assumptions that were
786 used to value the pension ~~Florida Retirement System defined~~
787 ~~benefit~~ plan liabilities in the most recent actuarial valuation.
788 The calculation must include any service already maintained
789 under the pension ~~defined benefit~~ plan in addition to the years
790 under the ~~State Community College System~~ optional retirement
791 program. The present value of any service already maintained
792 must be applied as a credit to total cost resulting from the
793 calculation. The division shall ensure that the transfer sum is
794 prepared using a formula and methodology certified by an
795 enrolled actuary.

796 (II) The employee must transfer from his or her ~~State~~
797 ~~Community College System~~ optional retirement program account and
798 from other employee moneys as necessary, a sum representing the
799 present value of the employee's accumulated benefit obligation
800 immediately following the time of such movement, determined
801 assuming that attained service equals the sum of service in the
802 pension plan ~~defined benefit program~~ and service in the ~~State~~
803 ~~Community College System~~ optional retirement program.

804 4. Participation in the optional retirement program is
805 limited to employees who satisfy the following eligibility
806 criteria:

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

811 b. The employee is ~~must be~~ employed in a full-time position
812 classified in the Accounting Manual for Florida's Public

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813 Community Colleges as:

814 (I) Instructional; or

815 (II) Executive Management, Instructional Management, or
816 Institutional Management, and the, ~~if a~~ community college
817 determines that recruiting to fill a vacancy in the position is
818 to be conducted in the national or regional market, and the
819 duties and responsibilities of the position include the
820 formulation, interpretation, or implementation of policies, or
821 the performance of functions that are unique or specialized
822 within higher education and that frequently support the mission
823 of the community college.

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

827 5. Members of Participants ~~in~~ the program are subject to
828 the same reemployment limitations, renewed membership
829 provisions, and forfeiture provisions ~~as are~~ applicable to
830 regular members of the Florida Retirement System under ss.
831 121.091(9), 121.122, and 121.091(5), respectively. A member
832 ~~participant~~ who receives a program distribution funded by
833 employer contributions is ~~shall be~~ deemed to be retired from a
834 state-administered retirement system if the retiree ~~participant~~
835 is subsequently employed with an employer that participates in
836 the Florida Retirement System.

837 6. Eligible community college employees are compulsory
838 members of the Florida Retirement System until, pursuant to s.
839 1012.875, a written election to withdraw from the system and
840 participate in the ~~State Community College System~~ optional
841 retirement program is filed with the program administrator and

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842 received by the division.

843 a. A community college employee whose program eligibility
844 results from initial employment shall ~~must~~ be enrolled in the
845 ~~State Community College System~~ optional retirement program
846 retroactive to the first day of eligible employment. The
847 employer retirement contributions paid through the month of the
848 employee plan change shall be transferred to the community
849 college to the employee's optional program account, and,
850 effective the first day of the next month, the employer shall
851 pay the applicable contributions based upon subparagraph 1.

852 b. A community college employee whose program eligibility
853 is due to the subsequent designation of the employee's position
854 as one of those specified in subparagraph 4., or due to the
855 employee's appointment, promotion, transfer, or reclassification
856 to a position specified in subparagraph 4., must be enrolled in
857 the program on the first day of the first full calendar month
858 that such change in status becomes effective. The employer
859 retirement contributions paid from the effective date through
860 the month of the employee plan change must be transferred to the
861 community college to the employee's optional program account,
862 and, effective the first day of the next month, the employer
863 shall pay the applicable contributions based upon subparagraph
864 1.

865 7. Effective July 1, 2003, through December 31, 2008, any
866 member ~~participant~~ of the ~~State Community College System~~
867 optional retirement program who has service credit in the
868 pension ~~defined benefit~~ plan of the Florida Retirement System
869 for the period between his or her first eligibility to transfer
870 from the pension ~~defined benefit~~ plan to the optional retirement

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871 program and the actual date of transfer may, during employment,
872 transfer to the optional retirement program a sum representing
873 the present value of the accumulated benefit obligation under
874 the pension plan ~~defined benefit retirement program~~ for the
875 period of service credit. Upon transfer, all service credit
876 previously earned under the pension plan ~~defined benefit program~~
877 ~~of the Florida Retirement System~~ during this period is nullified
878 for purposes of entitlement to a future benefit under the
879 pension plan ~~defined benefit program of the Florida Retirement~~
880 ~~System~~.

881 (d) The governing body of a charter school or a charter
882 technical career center may elect to participate in the system
883 upon proper application to the administrator and shall cover its
884 units as approved by the Secretary of Health and Human Services
885 and the administrator. Once this election is made and approved,
886 it may not be revoked, and all present officers and employees
887 selecting coverage under this chapter and all future officers
888 and employees shall be compulsory members of the Florida
889 Retirement System.

890 (e) All eligible employees initially enrolled on or after
891 July 1, 2011, who are members of the Elected Officers' Class and
892 Senior Management Class are compulsory members of the investment
893 plan and membership in the revision plan is not permitted except
894 as provided in s. 121.591, F.S.

895 (3) SOCIAL SECURITY COVERAGE.—Social security coverage
896 shall be provided for all officers and employees who become
897 members under ~~the provisions of~~ subsection (1) or subsection
898 (2). Any modification of the present agreement with the Social
899 Security Administration, or referendum required under the Social

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900 Security Act, for the purpose of providing social security
901 coverage for any member shall be requested by the state agency
902 in compliance with the applicable provisions of the Social
903 Security Act governing such coverage. However, retroactive
904 social security coverage for service ~~prior to December 1, 1970,~~
905 with the employer before December 1, 1970, may ~~shall~~ not be
906 provided for a any member who was not covered under the
907 agreement as of November 30, 1970. The employer-paid employee
908 contributions specified in s. 121.71(2) are subject to taxes
909 imposed under the Federal Insurance Contributions Act, 26 U.S.C.
910 ss. 3101-3128.

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

914 121.0515 Special risk membership.—

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

921 (b) Contributions for upgrading the additional special risk
922 credit are pursuant to this subsection shall be equal to the
923 difference in the employer and, if applicable, employee
924 contributions paid and the special risk percentage rate of gross
925 salary in effect at the time of purchase for the period being
926 claimed, plus interest thereon at the rate of 4 percent a year
927 compounded annually from the date of such service until July 1,
928 1975, and 6.5 percent a year thereafter until the date of

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929 payment. ~~This~~ Past service may be purchased by the member or by
930 the employer on behalf of the member.

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

932 (a) A special risk member who is moved or reassigned to a
933 nonspecial risk law enforcement, firefighting, correctional, or
934 emergency medical care administrative support position within
935 ~~with~~ the same agency, or who is subsequently employed in such a
936 position with any law enforcement, firefighting, correctional,
937 or emergency medical care agency under the Florida Retirement
938 System, shall participate in the Special Risk Administrative
939 Support Class and ~~shall~~ earn credit for such service at the same
940 percentage rate as that earned by a regular member.

941 Notwithstanding ~~the provisions of~~ subsection (4), service in
942 ~~such~~ an administrative support position ~~shall~~, for purposes of
943 s. 121.091, applies ~~apply~~ toward satisfaction of the special
944 risk normal retirement date, as defined in s. 121.021 ~~(29)(b)~~ if,
945 ~~provided that~~, while in such position, the member remains
946 certified as a law enforcement officer, firefighter,
947 correctional officer, emergency medical technician, or
948 paramedic; remains subject to reassignment at any time to a
949 position qualifying for special risk membership; and completes
950 an aggregate of 6 or more years of service as a designated
951 special risk member before ~~prior to~~ retirement.

952 (9) CREDIT FOR UPGRADED SERVICE.—

953 (c) Any member of the Special Risk Class who has earned
954 creditable service in another membership class of the Florida
955 Retirement System in a position with the Department of Law
956 Enforcement or the Division of State Fire Marshal and became
957 covered by the Special Risk Class as described in paragraph

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958 (2) (i), or with a local government law enforcement agency or
959 medical examiner's office and became covered by the Special Risk
960 Class as described in paragraph (2) (j), which service is within
961 the purview of the Special Risk Class, and is employed in such
962 position on or after July 1, 2008, may purchase additional
963 retirement credit to upgrade such service to Special Risk Class
964 service, to the extent of the percentages of the member's
965 average final compensation provided in s. 121.091(1) (a)2. The
966 cost for such credit must ~~shall~~ be an amount representing the
967 actuarial accrued liability for the difference in accrual value
968 during the affected period of service. The cost shall be
969 calculated using the discount rate and other relevant actuarial
970 assumptions that were used to value the Florida Retirement
971 System's pension ~~System defined benefit~~ plan liabilities in the
972 most recent actuarial valuation. The division shall ensure that
973 the transfer sum is prepared using a formula and methodology
974 certified by an enrolled actuary. The cost must be paid
975 immediately upon notification by the division. The local
976 government employer may purchase the upgraded service credit on
977 behalf of the member if the member has been employed by that
978 employer for at least 3 years.

979 Section 9. Paragraphs (a) and (d) of subsection (4) and
980 paragraph (b) of subsection (7) of section 121.052, Florida
981 Statutes, are amended, present paragraph (c) of subsection (7)
982 of that section is redesignated as paragraph (d), a new
983 paragraph (c) is added to that subsection, and subsection (8) of
984 that section is amended, to read:

985 121.052 Membership class of elected officers.—

986 (4) PARTICIPATION BY ELECTED OFFICERS SERVING A SHORTENED

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987 TERM DUE TO APPORTIONMENT, FEDERAL INTERVENTION, ETC.—

988 (a) An ~~Any~~ duly elected officer whose term of office was
989 shortened by legislative or judicial apportionment pursuant to
990 ~~the provisions of~~ s. 16, Art. III of the State Constitution may,
991 after the term of office to which he or she was elected is
992 completed, pay into the Florida Retirement System Trust Fund the
993 amount of contributions that would have been made by the officer
994 or the officer's employer on his or her behalf, plus 4 percent
995 interest compounded annually from the date he or she left office
996 until July 1, 1975, and 6.5 percent interest compounded annually
997 thereafter, and may receive service credit for the length of
998 time the officer would have served if such term had not been
999 shortened by apportionment.

1000 (d)1. Any justice or judge, or any retired justice or judge
1001 who retired before July 1, 1993, who has attained the age of 70
1002 years and who is prevented under s. 8, Art. V of the State
1003 Constitution from completing his or her term of office because
1004 of age may elect to purchase credit for all or a portion of the
1005 months he or she would have served during the remainder of the
1006 term of office; however, ~~but~~ he or she may claim those months
1007 only after the date the service would have occurred. The justice
1008 or judge must pay into the Florida Retirement System Trust Fund
1009 the amount of contributions that would have been made by the
1010 employer on his or her behalf for the period of time being
1011 claimed, plus 6.5 percent interest thereon compounded each June
1012 30 from the date he or she left office, in order to receive
1013 service credit in this class for the period of time being
1014 claimed. After the date the service would have occurred, and
1015 upon payment of the required contributions, the retirement

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1016 benefit of a retired justice or judge shall ~~will~~ be adjusted
1017 prospectively to include the ~~this~~ additional creditable service;
1018 however, such adjustment may be made only once.

1019 2. Any justice or judge who does not seek election to a
1020 subsequent term of office because he or she would be prevented
1021 under s. 8, Art. V of the State Constitution from completing
1022 such term of office upon attaining the age of 70 years may elect
1023 to purchase service credit for service as a temporary judge as
1024 assigned by the court if the temporary assignment ~~follows~~
1025 immediately follows the last full term of office served and the
1026 purchase is limited to the number of months of service needed to
1027 vest retirement benefits. To receive retirement credit for ~~such~~
1028 temporary service beyond termination, the justice or judge must
1029 pay into the Florida Retirement System Trust Fund the amount of
1030 contributions that would have been made by the justice or judge
1031 and the employer on his or her behalf had he or she continued in
1032 office for the period of time being claimed, plus 6.5 percent
1033 interest thereon compounded each June 30 from the date he or she
1034 left office.

1035 (7) CONTRIBUTIONS.—

1036 (b) The employer paying the salary of a member of the
1037 Elected Officers' Class shall contribute an amount as specified
1038 in this subsection or s. 121.71, as appropriate, which shall
1039 constitute the ~~entire~~ employer retirement contribution with
1040 respect to such member. The employer shall also withhold one-
1041 half of the entire contribution of the member required for
1042 social security coverage. Effective July 1, 2011, members of the
1043 Elected Officers' Class shall pay retirement contributions as
1044 specified in s. 121.71.

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1045 (c) If a member of the Elected Officers' Class ceases to
1046 fill an office covered by this class for 3 calendar months for
1047 any reason other than retirement and has not been employed in
1048 any capacity with any participating employer for 3 calendar
1049 months, the member is entitled to receive a refund of all
1050 contributions he or she made to the pension plan, subject to the
1051 restrictions otherwise provided in this chapter. Partial refunds
1052 are not permitted. The refund may not include any interest
1053 earnings on contributions to the pension plan. Employer
1054 contributions made on behalf of the member are not refundable. A
1055 member may not receive a refund of employee contributions if a
1056 pending or an approved qualified domestic relations order is
1057 filed against the member's retirement account. By obtaining a
1058 refund of contributions, a member waives all rights under the
1059 Florida Retirement System, including the health insurance
1060 subsidy under this subsection, to the service credit represented
1061 by the refunded contributions, except the right to purchase
1062 prior service credit in accordance with s. 121.081(2).

1063 (8) NORMAL RETIREMENT DATE; VESTING REQUIREMENT.—A member
1064 of the Elected Officers' Class has ~~shall have~~ the same normal
1065 retirement date as defined in s. 121.021~~(29)~~ for a member of the
1066 regular class of the Florida Retirement System. A ~~Any~~ public
1067 service commissioner who was removed from the Elected State
1068 Officers' Class on July 1, 1979, after attaining at least 8
1069 years of creditable service in that class is ~~shall be~~ considered
1070 to have reached the normal retirement date upon attaining the
1071 required age as provided ~~62 as required~~ in s. 121.021(29)~~(a)~~.

1072 Section 10. Paragraph (a) of subsection (7) of section
1073 121.053, Florida Statutes, is amended to read:

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1074 121.053 Participation in the Elected Officers' Class for
1075 retired members.—

1076 (7) A member who is elected or appointed to an elective
1077 office and who is participating in the Deferred Retirement
1078 Option Program is not subject to termination as defined in s.
1079 121.021, or reemployment limitations as provided in s.
1080 121.091(9), until the end of his or her current term of office
1081 or, if the officer is consecutively elected or reelected to an
1082 elective office eligible for coverage under the Florida
1083 Retirement System, until he or she no longer holds an elective
1084 office, as follows:

1085 (a) At the end of the 60-month DROP period:

1086 1. The officer's DROP account may not accrue additional
1087 monthly benefits, but does continue to earn interest as provided
1088 in s. 121.091(13). However, an officer whose DROP participation
1089 begins on or after July 1, 2010, may not continue to earn such
1090 interest.

1091 2. Except for unfunded actuarial liability and health
1092 insurance subsidy contributions required under ss. 121.71(5) and
1093 121.76, retirement contributions are not required of the
1094 employer of the elected officer and additional retirement credit
1095 may not be earned under the Florida Retirement System.

1096 Section 11. Paragraphs (b) and (j) of subsection (1),
1097 paragraph (b) of subsection (3), and paragraphs (c), (d), and
1098 (e) of subsection (6) of section 121.055, Florida Statutes, are
1099 amended, present paragraph (c) of subsection (3) of that section
1100 is redesignated as paragraph (d), and a new paragraph (c) is
1101 added to that subsection, to read:

1102 121.055 Senior Management Service Class.—There is hereby

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1103 established a separate class of membership within the Florida
1104 Retirement System to be known as the "Senior Management Service
1105 Class," which shall become effective February 1, 1987.

1106 (1)

1107 (b)1. Except as provided in subparagraph 2., effective
1108 January 1, 1990, participation in the Senior Management Service
1109 Class is ~~shall be~~ compulsory for the president of each community
1110 college, the manager of each participating city or county, and
1111 all appointed district school superintendents. Effective January
1112 1, 1994, additional positions may be designated for inclusion in
1113 the Senior Management Service Class if ~~of the Florida Retirement~~
1114 ~~System, provided that:~~

1115 a. Positions to be included in the class are ~~shall be~~
1116 designated by the local agency employer. Notice of intent to
1117 designate positions for inclusion in the class must ~~shall~~ be
1118 published once a week for 2 consecutive weeks in a newspaper of
1119 general circulation published in the county or counties
1120 affected, as provided under ~~in~~ chapter 50.

1121 b. Up to 10 nonelective full-time positions may be
1122 designated for each local agency employer reporting to the
1123 department ~~of Management Services~~; for local agencies with 100
1124 or more regularly established positions, additional nonelective
1125 full-time positions may be designated, up to ~~not to exceed~~ 1
1126 percent of the regularly established positions within the
1127 agency.

1128 c. Each position added to the class must be a managerial or
1129 policymaking position filled by an employee who is not subject
1130 to continuing contract and serves at the pleasure of the local
1131 agency employer without civil service protection, and who:

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1132 (I) Heads an organizational unit; or

1133 (II) Has responsibility to effect or recommend personnel,
1134 budget, expenditure, or policy decisions in his or her areas of
1135 responsibility.

1136 2. In lieu of participation in the Senior Management
1137 Service Class, members of the ~~Senior Management Service~~ class,
1138 pursuant to ~~the provisions of~~ subparagraph 1., may withdraw from
1139 the Florida Retirement System altogether. The decision to
1140 withdraw from the ~~Florida Retirement~~ system is ~~shall be~~
1141 irrevocable ~~for~~ as long as the employee holds the ~~such a~~
1142 position. Any service creditable under the Senior Management
1143 Service Class shall be retained after the member withdraws from
1144 the ~~Florida Retirement~~ system; however, additional service
1145 credit in the Senior Management Service Class may ~~shall~~ not be
1146 earned after such withdrawal. Such members are ~~shall~~ not be
1147 eligible to participate in the Senior Management Service
1148 Optional Annuity Program.

1149 3. Effective January 1, 2006, through June 30, 2006, an
1150 employee who has withdrawn from the Florida Retirement System
1151 under subparagraph 2. has one opportunity to elect to
1152 participate in ~~either~~ the pension plan or investment plan
1153 ~~defined benefit program or the Public Employee Optional~~
1154 ~~Retirement Program~~ of the Florida Retirement System.

1155 a. If the employee elects to participate in the investment
1156 plan ~~Public Employee Optional Retirement Program~~, membership is
1157 ~~shall be~~ prospective, and the applicable provisions of s.
1158 121.4501(4) shall govern the election.

1159 b. If the employee elects to participate in the pension
1160 plan ~~defined benefit program of the Florida Retirement System~~,

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1161 the employee shall, upon payment to the system trust fund of the
1162 amount calculated under sub-sub-subparagraph (I), receive
1163 service credit for prior service based upon the time during
1164 which the employee had withdrawn from the system.

1165 (I) The cost for such credit shall be an amount
1166 representing the actuarial accrued liability for the affected
1167 period of service. The cost shall be calculated using the
1168 discount rate and other relevant actuarial assumptions that were
1169 used to value pension ~~the Florida Retirement System defined~~
1170 ~~benefit~~ plan liabilities in the most recent actuarial valuation.
1171 The calculation must ~~shall~~ include any service already
1172 maintained under the pension ~~defined benefit~~ plan in addition to
1173 the period of withdrawal. The actuarial accrued liability
1174 attributable to any service already maintained under the pension
1175 ~~defined benefit~~ plan shall be applied as a credit to the total
1176 cost resulting from the calculation. The division must ~~shall~~
1177 ensure that the transfer sum is prepared using a formula and
1178 methodology certified by an actuary.

1179 (II) The employee must transfer a sum representing the net
1180 cost owed for the actuarial accrued liability in sub-sub-
1181 subparagraph (I) immediately following the time of such
1182 movement, determined assuming that attained service equals the
1183 sum of service in the pension plan ~~defined benefit program~~ and
1184 the period of withdrawal.

1185 (j) Except as may otherwise be provided, a ~~any~~ member of
1186 the Senior Management Service Class may purchase additional
1187 retirement credit in such class for creditable service within
1188 the purview of the Senior Management Service Class retroactive
1189 to February 1, 1987, and may upgrade retirement credit for such

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1190 service, to the extent of 2 percent of the member's average
1191 monthly compensation as specified in paragraph (4) (d) for such
1192 service. Contributions for upgrading ~~the~~ additional Senior
1193 Management Service credit are pursuant to this paragraph shall
1194 ~~be~~ equal to the difference in the employer and, if applicable,
1195 employee contributions paid and the Senior Management Service
1196 Class contribution rate as a percentage of gross salary in
1197 effect for the period being claimed, plus interest thereon at
1198 the rate of 6.5 percent a year, compounded annually until the
1199 date of payment. The ~~This~~ service credit may be purchased by the
1200 employer on behalf of the member.

1201 (3)

1202 (b) The employer or member of the Senior Management Service
1203 Class, as applicable, paying the salary of a member of the
1204 ~~Senior Management Service Class~~ shall contribute an amount as
1205 specified in this section or s. 121.71, as appropriate, which
1206 shall constitute the entire ~~employer~~ retirement contribution
1207 with respect to such member. The employer shall also withhold
1208 one-half of the entire contribution of the member required for
1209 social security coverage. Effective July 1, 2011, each member
1210 shall pay employee contributions as specified in s. 121.71.

1211 (c) Upon termination of employment from all participating
1212 employers for 3 calendar months as defined in s. 121.021(39) (c)
1213 for any reason other than retirement, a member may receive a
1214 refund of all contributions he or she has made to the pension
1215 plan, subject to the restrictions otherwise provided in this
1216 chapter. Partial refunds are not permitted. The refund may not
1217 include any interest earnings on the contributions for a member
1218 of the pension plan. Employer contributions made on behalf of

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1219 the member are not refundable. A member may not receive a refund
1220 of employee contributions if a pending or an approved qualified
1221 domestic relations order is filed against the member's
1222 retirement account. By obtaining a refund of contributions, a
1223 member waives all rights under the Florida Retirement System and
1224 the health insurance subsidy provided under s. 112.363 to the
1225 service credit represented by the refunded contributions, except
1226 the right to purchase prior service credit in accordance with s.
1227 121.081(2).

1228 (6)

1229 (c) *Participation.*—

1230 1. An eligible employee who is employed on or before
1231 February 1, 1987, may elect to participate in the optional
1232 annuity program in lieu of participating ~~participation~~ in the
1233 Senior Management Service Class. Such election must be made in
1234 writing and filed with the department and the personnel officer
1235 of the employer on or before May 1, 1987. An eligible employee
1236 who is employed on or before February 1, 1987, and who fails to
1237 make an election to participate in the optional annuity program
1238 by May 1, 1987, shall be deemed to have elected membership in
1239 the Senior Management Service Class.

1240 2. Except as provided in subparagraph 6., an employee who
1241 becomes eligible to participate in the optional annuity program
1242 by reason of initial employment commencing after February 1,
1243 1987, may, within 90 days after the date of commencing
1244 employment, elect to participate in the optional annuity
1245 program. Such election must be made in writing and filed with
1246 the personnel officer of the employer. An eligible employee who
1247 does not within 90 days after commencing employment elect to

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1248 participate in the optional annuity program shall be deemed to
1249 have elected membership in the Senior Management Service Class.

1250 3. A person who is appointed to a position in the Senior
1251 Management Service Class and who is a member of an existing
1252 retirement system or the Special Risk or Special Risk
1253 Administrative Support Classes of the Florida Retirement System
1254 may elect to remain in such system or class in lieu of
1255 participating ~~participation~~ in the Senior Management Service
1256 Class or optional annuity program. Such election must be made in
1257 writing and filed with the department and the personnel officer
1258 of the employer within 90 days after ~~of~~ such appointment. An ~~Any~~
1259 eligible employee who fails to make an election to participate
1260 in the existing system, the Special Risk Class of the Florida
1261 Retirement System, the Special Risk Administrative Support Class
1262 of the Florida Retirement System, or the optional annuity
1263 program shall be deemed to have elected membership in the Senior
1264 Management Service Class.

1265 4. Except as provided in subparagraph 5., an employee's
1266 election to participate in the optional annuity program is
1267 irrevocable if the employee continues to be employed in an
1268 eligible position and continues to meet the eligibility
1269 requirements set forth in this paragraph.

1270 5. Effective from July 1, 2002, through September 30, 2002,
1271 an ~~any~~ active employee in a regularly established position who
1272 has elected to participate in the Senior Management Service
1273 Optional Annuity Program has one opportunity to choose to move
1274 from the Senior Management Service Optional Annuity Program to
1275 the Florida Retirement System's pension plan ~~System-defined~~
1276 ~~benefit program~~.

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1277 a. The election must be made in writing and must be filed
1278 with the department and the personnel officer of the employer
1279 before October 1, 2002, or, in the case of an active employee
1280 who is on a leave of absence on July 1, 2002, within 90 days
1281 after the conclusion of the leave of absence. This election is
1282 irrevocable.

1283 b. The employee shall receive service credit under the
1284 pension plan ~~defined benefit program of the Florida Retirement~~
1285 ~~System~~ equal to his or her years of service under the Senior
1286 Management Service Optional Annuity Program. The cost for such
1287 credit is the amount representing the present value of that
1288 employee's accumulated benefit obligation for the affected
1289 period of service.

1290 c. The employee must transfer the total accumulated
1291 employer contributions and earnings on deposit in his or her
1292 Senior Management Service Optional Annuity Program account. If
1293 the transferred amount is not sufficient to pay the amount due,
1294 the employee must pay a sum representing the remainder of the
1295 amount due. The employee may not retain any employer
1296 contributions or earnings ~~thereon~~ from the Senior Management
1297 Service Optional Annuity Program account.

1298 6. A retiree of a state-administered retirement system who
1299 is initially reemployed on or after July 1, 2010, may not renew
1300 membership in the Senior Management Service Optional Annuity
1301 Program.

1302 (d) *Contributions.*—

1303 1.a. Through June 30, 2001, each employer shall contribute
1304 on behalf of each member of ~~participant in~~ the Senior Management
1305 Service Optional Annuity Program an amount equal to the normal

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1306 cost portion of the employer retirement contribution which would
1307 be required if the employee participant were a Senior Management
1308 Service Class member of the Florida Retirement System's pension
1309 plan System defined benefit program, plus the portion of the
1310 contribution rate required in s. 112.363(8) which that would
1311 otherwise be assigned to the Retiree Health Insurance Subsidy
1312 Trust Fund.

1313 b. Effective July 1, 2001, each employer shall contribute
1314 on behalf of each member of participant in the optional annuity
1315 program an amount equal to 12.49 percent of the employee's
1316 participant's gross monthly compensation.

1317 c. Effective July 1, 2011, each member of the optional
1318 annuity program shall contribute an amount equal to the employee
1319 contribution required in s. 121.71(3). The employer shall
1320 contribute on behalf of each such employee an amount equal to
1321 the difference between 12.49 percent of the employee's gross
1322 monthly compensation and the amount equal to the employee's
1323 required contribution based on the employee's gross monthly
1324 compensation.

1325 d. ~~The department shall deduct an amount approved by the~~
1326 ~~Legislature to provide for the administration of this program.~~
1327 The Payment of the contributions, including contributions made
1328 by the employee, to the optional program which is required by
1329 ~~this subparagraph for each participant~~ shall be made by the
1330 employer to the department, which shall forward the
1331 contributions to the designated company or companies contracting
1332 for payment of benefits for members of the participant under the
1333 optional annuity program. The department shall deduct an amount
1334 approved by the Legislature to provide for the administration of

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1335 the program.

1336 2. Each employer shall contribute on behalf of each member
1337 of participant~~in~~ the Senior Management Service Optional Annuity
1338 Program an amount equal to the unfunded actuarial accrued
1339 liability portion of the employer contribution which would be
1340 required for members of the Senior Management Service Class in
1341 the Florida Retirement System. This contribution shall be paid
1342 to the department for transfer to the Florida Retirement System
1343 Trust Fund.

1344 3. An Optional Annuity Program Trust Fund shall be
1345 established in the State Treasury and administered by the
1346 department to make payments to provider companies on behalf of
1347 the optional annuity program members ~~participants~~, and to
1348 transfer the unfunded liability portion of the state optional
1349 annuity program contributions to the Florida Retirement System
1350 Trust Fund.

1351 4. Contributions required for social security by each
1352 employer and each employee ~~participant~~, in the amount required
1353 for social security coverage as now or hereafter may be provided
1354 by the federal Social Security Act, shall be maintained for each
1355 member of participant~~in~~ the Senior Management Service
1356 retirement program and are ~~shall be~~ in addition to the
1357 retirement contributions specified in this paragraph.

1358 5. Each member of ~~participant in~~ the ~~Senior Management~~
1359 ~~Service~~ optional annuity program may contribute by way of salary
1360 reduction or deduction a percentage amount of the employee's
1361 ~~participant's~~ gross compensation not to exceed the percentage
1362 amount contributed by the employer to the optional annuity
1363 program. Payment of the employee's ~~participant's~~ contributions

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1364 shall be made by the employer to the department, which shall
1365 forward the contributions to the designated company or companies
1366 contracting for payment of benefits for members ~~the participant~~
1367 under the program.

1368 (e) *Benefits.*—

1369 1. Benefits under the Senior Management Service Optional
1370 Annuity Program are payable only to members of ~~participants in~~
1371 the program, or their beneficiaries as designated by the member
1372 ~~participant~~ in the contract with the provider company, and must
1373 be paid by the designated company in accordance with the terms
1374 of the annuity contract applicable to the member ~~participant~~. A
1375 member ~~participant~~ must be terminated from all employment
1376 relationships with Florida Retirement System employers as
1377 provided in s. 121.021(39) to begin receiving the employer-
1378 funded and employee-funded benefit. Benefits funded by employer
1379 and employee contributions are payable under the terms of the
1380 contract to the member ~~participant~~, his or her beneficiary, or
1381 his or her estate, in addition to:

1382 a. A lump-sum payment to the beneficiary upon the death of
1383 the member ~~participant~~;

1384 b. A cash-out of a de minimis account upon the request of a
1385 former member ~~participant~~ who has been terminated for a minimum
1386 of 6 calendar months from the employment that entitled him or
1387 her to optional annuity program participation. Such cash-out
1388 must be a complete liquidation of the account balance with that
1389 company and is subject to the Internal Revenue Code;

1390 c. A mandatory distribution of a de minimis account of a
1391 former member ~~participant~~ who has been terminated for a minimum
1392 of 6 calendar months from the employment that entitled him or

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1393 her to optional annuity program participation as authorized by
1394 the department; or

1395 d. A lump-sum direct rollover distribution whereby all
1396 accrued benefits, plus interest and investment earnings, are
1397 paid from the member's ~~participant's~~ account directly to the
1398 custodian of an eligible retirement plan, as defined in s.
1399 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
1400 member ~~participant~~.

1401 2. Benefits are not payable for employee hardships,
1402 unforeseeable emergencies, loans, medical expenses, educational
1403 expenses, purchase of a principal residence, payments necessary
1404 to prevent eviction or foreclosure on an employee's principal
1405 residence, or any other reason before termination from all
1406 employment relationships with participating employers, as
1407 provided in s. 121.021(39).

1408 ~~3.2.~~ The benefits payable to any person under the ~~Senior~~
1409 ~~Management Service~~ optional annuity program, and any
1410 contribution accumulated under such program, are not subject to
1411 assignment, execution, or attachment or to any legal process
1412 whatsoever.

1413 ~~4.3.~~ Except as provided in subparagraph ~~5. 4.~~, a member
1414 ~~participant~~ who terminates employment and receives a
1415 distribution, including a rollover or trustee-to-trustee
1416 transfer, funded by employer or employee contributions is ~~shall~~
1417 ~~be~~ deemed to be retired from a state-administered retirement
1418 system if the retiree ~~participant~~ is subsequently employed with
1419 an employer that participates in the Florida Retirement System.

1420 ~~5.4.~~ A member ~~participant~~ who receives optional annuity
1421 program benefits funded by employer or employee contributions as

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1422 a mandatory distribution of a de minimis account authorized by
1423 the department is not considered a retiree.

1424
1425 As used in this paragraph, a "de minimis account" means an
1426 account with a provider company containing employer or employee
1427 contributions and accumulated earnings of not more than \$5,000
1428 made under this chapter.

1429 Section 12. Subsections (2) and (5) and paragraph (c) of
1430 subsection (6) of section 121.071, Florida Statutes, are
1431 amended, present paragraph (d) of subsection (6) of that section
1432 is redesignated as paragraph (e), and a new paragraph (d) is
1433 added to that subsection, to read:

1434 121.071 Contributions.—Contributions to the system shall be
1435 made as follows:

1436 (2) (a) Effective January 1, 1975, or October 1, 1975, as
1437 applicable, and through June 30, 2011, each employer shall make
1438 ~~accomplish~~ the contribution required by subsection (1) by a
1439 procedure in which no employee's gross salary is ~~shall be~~
1440 reduced. Effective July 1, 2011, each employee, and his or her
1441 employer, shall pay retirement contributions as specified in s.
1442 121.71.

1443 (b) Upon termination of employment from all participating
1444 employers for 3 calendar months as defined in s. 121.021(39) (c)
1445 for any reason other than retirement, a member may receive a
1446 ~~shall be entitled to a full~~ refund of all ~~the~~ contributions he
1447 or she ~~has made to the pension prior or subsequent to~~
1448 ~~participation in the noncontributory plan, subject to the~~
1449 restrictions otherwise provided in this chapter. Partial refunds
1450 are not permitted. The refund may not include any interest

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1451 earnings on the contributions for a member of the pension plan.
1452 Employer contributions made on behalf of the member are not
1453 refundable. A member may not receive a refund of employee
1454 contributions if a pending or an approved qualified domestic
1455 relations order is filed against his or her retirement account.
1456 By obtaining a refund of contributions, a member waives all
1457 rights under the Florida Retirement System and the health
1458 insurance subsidy to the service credit represented by the
1459 refunded contributions, except the right to purchase prior
1460 service credit in accordance with s. 121.081(2).

1461 (5) Contributions made in accordance with subsections (1),
1462 (2), (3), and (4), and s. 121.71 shall be paid ~~by the employer~~
1463 into the system trust funds in accordance with rules adopted by
1464 the administrator pursuant to chapter 120, except as ~~may be~~
1465 otherwise specified herein. Effective July 1, 2002,
1466 contributions paid under subsections (1) and (4) and
1467 accompanying payroll data are due and payable by no later than
1468 the 5th working day of the month immediately following the month
1469 during which the payroll period ended.

1470 (6)

1471 (c) By obtaining a refund of contributions, a member waives
1472 all rights under the Florida Retirement System, including the
1473 health insurance subsidy under subsection (4), to the service
1474 credit represented by the refunded contributions, except the
1475 right to purchase ~~his or her~~ prior service credit in accordance
1476 with s. 121.081(2).

1477 (d) If a member or former member of the pension plan
1478 receives an invalid refund from the Florida Retirement System
1479 Trust Fund, such person must repay the full amount of the

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1480 refund, plus interest at 6.5 percent compounded annually on each
1481 June 30 from the date of refund until full repayment is made.
1482 The invalid refund must be repaid before the member retires or,
1483 if applicable, transfers to the investment plan.

1484 Section 13. Paragraphs (b) and (c) of subsection (1) and
1485 subsection (2) of section 121.081, Florida Statutes, are amended
1486 to read:

1487 121.081 Past service; prior service; contributions.—
1488 Conditions under which past service or prior service may be
1489 claimed and credited are:

1490 (1)

1491 (b) Past service earned after January 1, 1975, may be
1492 claimed by officers or employees of a municipality, metropolitan
1493 planning organization, charter school, charter technical career
1494 center, or special district who become a covered group under
1495 this system. The governing body of a covered group may elect to
1496 provide benefits for past service earned after January 1, 1975,
1497 in accordance with this chapter.~~7~~—~~and~~ The cost for such past
1498 service is established by applying the following formula: The
1499 employer shall contribute an amount equal to the employer or
1500 employee contribution rate in effect at the time the service was
1501 earned, as applicable, multiplied by the employee's gross salary
1502 for each year of past service claimed, plus 6.5 percent ~~6.5-~~
1503 ~~percent~~ interest thereon, compounded annually, for ~~figured on~~
1504 each year of past service, with interest compounded from date of
1505 annual salary earned until date of payment.

1506 (c) If an ~~Should the~~ employer does not elect to provide
1507 past service for the member on the date of joining the system,
1508 ~~then~~ the member may claim and pay for the service as provided in

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1509 ~~same, based on~~ paragraphs (a) and (b).

1510 (2) Prior service, as defined in s. 121.021~~(19)~~, may be
1511 claimed as creditable service under the Florida Retirement
1512 System after a member has been reemployed for 1 complete year of
1513 creditable service ~~within a period of 12 consecutive months,~~
1514 except as provided in paragraph (c). Service performed as a
1515 member participant of the optional retirement program for the
1516 State University System under s. 121.35 or the Senior Management
1517 Service Optional Annuity Program under s. 121.055 may be used to
1518 satisfy the reemployment requirement of 1 complete year of
1519 creditable service. The member may ~~shall not be permitted to~~
1520 make any contributions for prior service until after completion
1521 of the 1 year of creditable service. If a member does not wish
1522 to claim credit for all of his or her prior service, the service
1523 the member claims must be the most recent period of service. The
1524 required contributions for claiming the various types of prior
1525 service are:

1526 (a) For prior service performed before ~~prior to~~ the date
1527 the system becomes noncontributory for the member and for which
1528 the member had credit under one of the existing retirement
1529 systems and received a refund of contributions upon termination
1530 of employment, the member shall contribute 4 percent of all
1531 salary received during the period being claimed, plus 4 percent
1532 ~~4 percent~~ interest compounded annually from date of refund until
1533 July 1, 1975, and 6.5 percent ~~6.5 percent~~ interest compounded
1534 annually thereafter, until full payment is made to the Florida
1535 Retirement System Trust Fund, and shall receive credit in the
1536 Regular Class. A member who elected to transfer to the Florida
1537 Retirement System from an existing system may receive credit for

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1538 prior service under the existing system if he or she was
1539 eligible under the existing system to claim the prior service at
1540 the time of the transfer. Contributions for such prior service
1541 shall be determined by the applicable provisions of the system
1542 under which the prior service is claimed and shall be paid by
1543 the member, with matching contributions paid by the employer at
1544 the time the service was performed. Effective July 1, 1978, the
1545 account of a person who terminated under s. 238.05(3) may not be
1546 charged interest for contributions that remained on deposit in
1547 the Annuity Savings Trust Fund established under chapter 238,
1548 upon retirement under this chapter or chapter 238.

1549 (b) For prior service performed before ~~prior to~~ the date
1550 the system becomes noncontributory for the member and for which
1551 the member had credit under the Florida Retirement System and
1552 received a refund of contributions upon termination of
1553 employment, the member shall contribute at the rate that was
1554 required of him or her during the period of service being
1555 claimed, on all salary received during such period, plus 4
1556 percent ~~4-percent~~ interest compounded annually from date of
1557 refund until July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest
1558 compounded annually thereafter, until the full payment is made
1559 to the Florida Retirement System Trust Fund, and ~~shall~~ receive
1560 credit in the membership class in which the member participated
1561 during the period claimed.

1562 (c) For prior service as defined in s. 121.021(19) (b) and
1563 (c) during which no contributions were made because the member
1564 did not participate in a retirement system, the member shall
1565 contribute 14.38 percent of all salary received during such
1566 period or 14.38 percent of \$100 per month during such period,

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1567 whichever is greater, plus 4 percent ~~4 percent~~ interest
1568 compounded annually from the first year of service claimed until
1569 July 1, 1975, and 6.5 percent ~~6.5 percent~~ interest compounded
1570 annually thereafter, until full payment is made to the
1571 Retirement Trust Fund, and shall receive credit in the Regular
1572 Class.

1573 (d) In order to claim credit for prior service as defined
1574 in s. 121.021(19) (d) for which no retirement contributions were
1575 paid during the period of such service, the member shall
1576 contribute the total employee and employer contributions which
1577 were required to be made to the Highway Patrol Pension Trust
1578 Fund, as provided in chapter 321, during the period claimed,
1579 plus 4 percent ~~4 percent~~ interest compounded annually from the
1580 first year of service until July 1, 1975, and 6.5 percent ~~6.5-~~
1581 ~~percent~~ interest compounded annually thereafter, until full
1582 payment is made to the Retirement Trust Fund. However, any
1583 governmental entity that ~~which~~ employed such member may elect to
1584 pay up to 50 percent of the contributions and interest required
1585 to purchase the ~~this~~ prior service credit. The service shall be
1586 credited in accordance with the ~~provisions of the~~ Highway Patrol
1587 Pension Plan in effect during the period claimed unless the
1588 member terminated and withdrew his or her retirement
1589 contributions and was thereafter enrolled in the State and
1590 County Officers and Employees' Retirement System or the Florida
1591 Retirement System, in which case the service shall be credited
1592 as Regular Class service.

1593 (e) For service performed under the Florida Retirement
1594 System after December 1, 1970, which ~~that~~ was never reported to
1595 the division or the department due to error, retirement credit

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1596 may be claimed by a member of the Florida Retirement System. The
1597 department shall adopt rules establishing criteria for claiming
1598 such credit and detailing the documentation required to
1599 substantiate the error.

1600 (f) For prior service performed on or after July 1, 2011,
1601 for which the member had credit under the Florida Retirement
1602 System and received a refund of contributions 3 calendar months
1603 after termination of employment, the member shall contribute at
1604 the rate that was required during the period of service being
1605 claimed, plus 6.5 percent interest, compounded annually on each
1606 June 30 from date of refund until the full payment is made to
1607 the Florida Retirement System Trust Fund, and shall receive
1608 credit in the membership class in which the member participated
1609 during the period claimed.

1610 (g)~~(f)~~ The employer may not ~~be required to~~ make
1611 contributions for prior service credit for any member, except
1612 that the employer shall pay the employer portion of
1613 contributions for any legislator who elects to withdraw from the
1614 Florida Retirement System and later rejoins the system and pays
1615 any employee contributions required in accordance with s.
1616 121.052(3)(d).

1617 Section 14. Paragraph (a) of subsection (3), paragraph (a)
1618 of subsection (4), paragraphs (a) and (c) of subsection (5),
1619 paragraph (d) of subsection (9), paragraphs (a) and (c) of
1620 subsection (13), and paragraph (d) of subsection (14) of section
1621 121.091, Florida Statutes, are amended to read:

1622 121.091 Benefits payable under the system.—Benefits may not
1623 be paid under this section unless the member has terminated
1624 employment as provided in s. 121.021(39)(a) or begun

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1625 participation in the Deferred Retirement Option Program as
1626 provided in subsection (13), and a proper application has been
1627 filed in the manner prescribed by the department. The department
1628 may cancel an application for retirement benefits when the
1629 member or beneficiary fails to timely provide the information
1630 and documents required by this chapter and the department's
1631 rules. The department shall adopt rules establishing procedures
1632 for application for retirement benefits and for the cancellation
1633 of such application when the required information or documents
1634 are not received.

1635 (3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or her
1636 early retirement date, the member shall receive an immediate
1637 monthly benefit that shall begin to accrue on the first day of
1638 the month of the retirement date and be payable on the last day
1639 of that month and each month thereafter during his or her
1640 lifetime. Such benefit shall be calculated as follows:

1641 (a) The amount of each monthly payment shall be computed in
1642 the same manner as ~~for~~ a normal retirement benefit, in
1643 accordance with subsection (1), but shall be based on the
1644 member's average monthly compensation and creditable service as
1645 of the member's early retirement date. The benefit so computed
1646 shall be reduced by five-twelfths of 1 percent for each complete
1647 month by which the early retirement date precedes the normal
1648 retirement date ~~of age 62 for a member of the Regular Class,~~
1649 ~~Senior Management Service Class, or the Elected Officers' Class,~~
1650 ~~and age 55 for a member of the Special Risk Class, or age 52 if~~
1651 ~~a Special Risk member has completed 25 years of creditable~~
1652 ~~service~~ in accordance with s. 121.021(29) ~~(b)3~~.

1653 (4) DISABILITY RETIREMENT BENEFIT.—

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1654 (a) *Disability retirement; entitlement and effective date.*—

1655 1.a. A member who becomes totally and permanently disabled,
1656 as defined in paragraph (b), after completing 5 years of
1657 creditable service, or a member who becomes totally and
1658 permanently disabled in the line of duty regardless of service,
1659 is ~~shall be~~ entitled to a monthly disability benefit; except
1660 that any member with less than 5 years of creditable service on
1661 July 1, 1980, or any person who becomes a member of the Florida
1662 Retirement System on or after such date must have completed 10
1663 years of creditable service before ~~prior to~~ becoming totally and
1664 permanently disabled in order to receive disability retirement
1665 benefits for any disability which occurs other than in the line
1666 of duty. However, if a member employed on July 1, 1980, having
1667 ~~with~~ less than 5 years of creditable service as of that date,
1668 becomes totally and permanently disabled after completing 5
1669 years of creditable service and is found not to have attained
1670 fully insured status for benefits under the federal Social
1671 Security Act, such member is ~~shall be~~ entitled to a monthly
1672 disability benefit.

1673 b. Effective July 1, 2001, a member of the pension plan
1674 ~~defined benefit retirement program~~ who becomes totally and
1675 permanently disabled, as defined in paragraph (b), after
1676 completing 8 years of creditable service, or a member who
1677 becomes totally and permanently disabled in the line of duty
1678 regardless of service, is ~~shall be~~ entitled to a monthly
1679 disability benefit.

1680 2. If the division has received from the employer the
1681 required documentation of the member's termination of
1682 employment, the effective retirement date for a member who

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1683 applies and is approved for disability retirement shall be
1684 established by rule of the division.

1685 3. For a member who is receiving Workers' Compensation
1686 payments, the effective disability retirement date may not
1687 precede the date the member reaches Maximum Medical Improvement
1688 (MMI), unless the member terminates employment before ~~prior to~~
1689 reaching MMI.

1690 (5) TERMINATION BENEFITS.—A member whose employment is
1691 terminated before ~~prior to~~ retirement retains membership rights
1692 to previously earned member-noncontributory service credit, and
1693 to member-contributory service credit, if the member leaves the
1694 member contributions on deposit in his or her retirement
1695 account. If a terminated member receives a refund of member
1696 contributions, such member may reinstate membership rights to
1697 the previously earned service credit represented by the refund
1698 by completing 1 year of creditable service and repaying the
1699 refunded member contributions, plus interest.

1700 (a) A member whose employment is terminated for any reason
1701 other than death or retirement before ~~prior to~~ becoming vested
1702 is entitled to the return of his or her accumulated employee
1703 contributions as of the date of termination. Effective July 1,
1704 2011, upon termination of employment from all participating
1705 employers for 3 calendar months as defined in s. 121.021(39)(c)
1706 for any reason other than retirement, a member may receive a
1707 refund of all contributions he or she has made to the pension
1708 plan, subject to the restrictions otherwise provided in this
1709 chapter. Partial refunds are not permitted. The refund may not
1710 include any interest earnings on the contributions for a member
1711 of the pension plan. Employer contributions made on behalf of

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1712 the member are not refundable. A member may not receive a refund
1713 of employee contributions if a pending or an approved qualified
1714 domestic relations order is filed against his or her retirement
1715 account. By obtaining a refund of contributions, a member waives
1716 all rights under the Florida Retirement System and the health
1717 insurance subsidy to the service credit represented by the
1718 refunded contributions, except the right to purchase prior
1719 service credit in accordance with s. 121.081(2).

1720 (c) In lieu of the deferred monthly benefit provided in
1721 paragraph (b), the terminated member may elect to receive a
1722 lump-sum amount equal to his or her accumulated employee
1723 contributions as of the date of termination. Effective July 1,
1724 2011, upon termination of employment from all participating
1725 employers for 3 calendar months as defined in s. 121.021(39) (c)
1726 for any reason other than retirement, a member may receive a
1727 refund of all contributions he or she has made to the pension
1728 plan, subject to the restrictions otherwise provided in this
1729 chapter. Partial refunds are not permitted. The refund may not
1730 include any interest earnings on the contributions for a member
1731 of the pension plan. Employer contributions made on behalf of
1732 the member are not refundable. A member may not receive a refund
1733 of employee contributions if a pending or an approved qualified
1734 domestic relations order is filed against his or her retirement
1735 account. By obtaining a refund of contributions, a member waives
1736 all rights under the Florida Retirement System and the health
1737 insurance subsidy to the service credit represented by the
1738 refunded contributions, except the right to purchase prior
1739 service credit in accordance with s. 121.081(2).

1740 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

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1741 (d) ~~The provisions of~~ This subsection applies ~~apply~~ to
1742 retirees, as defined in s. 121.4501(2), of the Florida Public
1743 ~~Employee Optional Retirement System Investment Plan Program,~~
1744 subject to the following conditions:

1745 1. The retiree ~~retirees~~ may not be reemployed with an
1746 employer participating in the Florida Retirement System until
1747 such person has been retired for 6 calendar months.

1748 2. A retiree employed in violation of this subsection and
1749 an employer that employs or appoints such person are jointly and
1750 severally liable for reimbursement of any benefits paid to the
1751 retirement trust fund from which the benefits were paid,
1752 ~~including the Retirement System Trust Fund and the Public~~
1753 ~~Employee Optional Retirement Program Trust Fund, as appropriate.~~
1754 The employer must have a written statement from the retiree that
1755 he or she is not retired from a state-administered retirement
1756 system.

1757 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and
1758 subject to this section, the Deferred Retirement Option Program,
1759 hereinafter referred to as DROP, is a program under which an
1760 eligible member of the Florida Retirement System may elect to
1761 participate, deferring receipt of retirement benefits while
1762 continuing employment with his or her Florida Retirement System
1763 employer. The deferred monthly benefits shall accrue in the
1764 Florida Retirement System on behalf of the participant, plus
1765 interest compounded monthly, for the specified period of the
1766 DROP participation, as provided in paragraph (c). Upon
1767 termination of employment, the participant shall receive the
1768 total DROP benefits and begin to receive the previously
1769 determined normal retirement benefits. Participation in the DROP

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1770 does not guarantee employment for the specified period of DROP.
1771 Participation in DROP by an eligible member beyond the initial
1772 60-month period as authorized in this subsection shall be on an
1773 annual contractual basis for all participants.

1774 (a) *Eligibility of member to participate in DROP.*—All
1775 active Florida Retirement System members in a regularly
1776 established position, and all active members of the Teachers'
1777 Retirement System established in chapter 238 or the State and
1778 County Officers' and Employees' Retirement System established in
1779 chapter 122, which are consolidated within the Florida
1780 Retirement System under s. 121.011, are eligible to elect
1781 participation in DROP if:

1782 1. The member is not a renewed member under s. 121.122 or a
1783 member of the State Community College System Optional Retirement
1784 Program under s. 121.051, the Senior Management Service Optional
1785 Annuity Program under s. 121.055, or the optional retirement
1786 program for the State University System under s. 121.35.

1787 2. Except as provided in subparagraph 6., election to
1788 participate is made within 12 months immediately following the
1789 date on which the member first reaches normal retirement date,
1790 or, for a member who reaches normal retirement date based on
1791 service before he or she reaches age 62, or age 55 for Special
1792 Risk Class members, election to participate may be deferred to
1793 the 12 months immediately following the date the member attains
1794 age 57, or age 52 for Special Risk Class members. A member who
1795 delays DROP participation during the 12-month period immediately
1796 following his or her maximum DROP deferral date, except as
1797 provided in subparagraph 6., loses a month of DROP participation
1798 for each month delayed. A member who fails to make an election

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1799 within the 12-month limitation period forfeits all rights to
1800 participate in DROP. The member shall advise his or her employer
1801 and the division in writing of the date DROP begins. The
1802 beginning date may be subsequent to the 12-month election period
1803 but must be within the original 60-month participation period
1804 provided in subparagraph (b)1. When establishing eligibility ~~of~~
1805 ~~the member~~ to participate in DROP, the member may elect to
1806 include or exclude any optional service credit purchased by the
1807 member from the total service used to establish the normal
1808 retirement date. A member who has dual normal retirement dates
1809 is eligible to elect to participate in DROP after attaining
1810 normal retirement date in either class.

1811 3. The employer of a member electing to participate in
1812 DROP, or employers if dually employed, shall acknowledge in
1813 writing to the division the date the member's participation in
1814 DROP begins and the date the member's employment and DROP
1815 participation terminates ~~will terminate~~.

1816 4. Simultaneous employment of a member participant by
1817 additional Florida Retirement System employers subsequent to the
1818 commencement of a member's participation in DROP is permissible
1819 if such employers acknowledge in writing a DROP termination date
1820 no later than the member's participant's existing termination
1821 date or the maximum participation period provided in
1822 subparagraph (b)1.

1823 5. A member ~~DROP participant~~ may change employers while
1824 participating in DROP, subject to the following:

1825 a. A change of employment must take place without a break
1826 in service so that the member receives salary for each month of
1827 continuous DROP participation. If a member receives no salary

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1828 during a month, DROP participation ceases ~~shall cease~~ unless the
1829 employer verifies a continuation of the employment relationship
1830 for such member ~~participant~~ pursuant to s. 121.021(39)(b).

1831 b. The member ~~Such participant~~ and new employer shall
1832 notify the division of the identity of the new employer on forms
1833 required by the division.

1834 c. The new employer acknowledges ~~shall acknowledge~~, in
1835 writing, the member's ~~participant's~~ DROP termination date, which
1836 may be extended but not beyond the maximum participation period
1837 provided in subparagraph (b)1., acknowledges ~~shall acknowledge~~
1838 liability for any additional retirement contributions and
1839 interest required if the member ~~participant~~ fails to timely
1840 terminate employment, and is subject to the adjustment required
1841 in sub-subparagraph (c)5.d.

1842 6. Effective July 1, 2001, for instructional personnel as
1843 defined in s. 1012.01(2), election to participate in DROP may be
1844 made at any time following the date on which the member first
1845 reaches normal retirement date. The member shall advise his or
1846 her employer and the division in writing of the date on which
1847 DROP begins. When establishing eligibility of the member to
1848 participate in DROP for the 60-month participation period
1849 provided in subparagraph (b)1., the member may elect to include
1850 or exclude any optional service credit purchased by the member
1851 from the total service used to establish the normal retirement
1852 date. A member who has dual normal retirement dates is eligible
1853 to elect to participate in either class.

1854 (c) *Benefits payable under DROP.*—

1855 1. Effective on the date of DROP participation, the
1856 member's initial normal monthly benefit, including creditable

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1857 service, optional form of payment, and average final
1858 compensation, and the effective date of retirement are fixed.
1859 The beneficiary established under the Florida Retirement System
1860 is the beneficiary eligible to receive any DROP benefits payable
1861 if the DROP participant dies before completing the period of
1862 DROP participation. If a joint annuitant predeceases the member,
1863 the member may name a beneficiary to receive accumulated DROP
1864 benefits payable. The retirement benefit, the annual cost of
1865 living adjustments provided in s. 121.101, and interest accrue
1866 monthly in the Florida Retirement System Trust Fund.

1867 a. For members initially enrolled in the system before July
1868 1, 2011, the interest accrues at an effective annual rate of 6.5
1869 percent compounded monthly, on the prior month's accumulated
1870 ending balance, up to the month of termination or death, except
1871 as provided in s. 121.053(7).

1872 b. For members initially enrolled in the system on or after
1873 July 1, 2011, the interest accrues at an effective annual rate
1874 of 2 percent compounded monthly, on the prior month's
1875 accumulated ending balance, up to the month of termination or
1876 death, except as provided in s. 121.053(7).

1877 2. Each employee who elects to participate in DROP may
1878 elect to receive a lump-sum payment for accrued annual leave
1879 earned in accordance with agency policy upon beginning
1880 participation in DROP. The accumulated leave payment certified
1881 to the division upon commencement of DROP shall be included in
1882 the calculation of the member's average final compensation. The
1883 employee electing the lump-sum payment is not eligible to
1884 receive a second lump-sum payment upon termination, except to
1885 the extent the employee has earned additional annual leave

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1886 which, combined with the original payment, does not exceed the
1887 maximum lump-sum payment allowed by the employing agency's
1888 policy or rules. An early lump-sum payment shall be based on the
1889 hourly wage of the employee at the time he or she begins
1890 participation in DROP. If the member elects to wait and receive
1891 a lump-sum payment upon termination of DROP and termination of
1892 employment with the employer, any accumulated leave payment made
1893 at that time may not be included in the member's retirement
1894 benefit, which was determined and fixed by law when the employee
1895 elected to participate in DROP.

1896 3. The effective date of DROP participation and the
1897 effective date of retirement of a DROP participant shall be the
1898 first day of the month selected by the member to begin
1899 participation in DROP, provided such date is properly
1900 established, with the written confirmation of the employer, and
1901 the approval of the division, on forms required by the division.

1902 4. Normal retirement benefits and any interest ~~shall~~
1903 continue to accrue in DROP until the established termination
1904 date of DROP or until the member participant terminates
1905 employment or dies before ~~prior to~~ such date, except as provided
1906 in s. 121.053(7). Although individual DROP accounts may ~~shall~~
1907 not be established, a separate accounting of each member's
1908 ~~participant's~~ accrued benefits under DROP shall be calculated
1909 and provided to the member participants.

1910 5. At the conclusion of the member's participation in the
1911 ~~participant's~~ DROP, the division shall distribute the member's
1912 ~~participant's~~ total accumulated DROP benefits, subject to the
1913 following:

1914 a. The division shall receive verification by the member's

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1915 ~~participant's~~ employer or employers that the member ~~participant~~
1916 has terminated all employment relationships as provided in s.
1917 121.021(39).

1918 b. The terminated DROP participant or, if deceased, the
1919 member's ~~participant's~~ named beneficiary, shall elect on forms
1920 provided by the division to receive payment of the DROP benefits
1921 in accordance with one of the options listed below. If a member
1922 ~~participant~~ or beneficiary fails to elect a method of payment
1923 within 60 days after termination of DROP, the division shall pay
1924 a lump sum as provided in sub-sub-subparagraph (I).

1925 (I) Lump sum.—All accrued DROP benefits, plus interest,
1926 less withholding taxes remitted to the Internal Revenue Service,
1927 shall be paid to the DROP participant or surviving beneficiary.

1928 (II) Direct rollover.—All accrued DROP benefits, plus
1929 interest, shall be paid from DROP directly to the custodian of
1930 an eligible retirement plan as defined in s. 402(c)(8)(B) of the
1931 Internal Revenue Code. However, in the case of an eligible
1932 rollover distribution to the surviving spouse of a deceased
1933 member ~~participant~~, an eligible retirement plan is an individual
1934 retirement account or an individual retirement annuity as
1935 described in s. 402(c)(9) of the Internal Revenue Code.

1936 (III) Partial lump sum.—A portion of the accrued DROP
1937 benefits shall be paid to DROP participant or surviving spouse,
1938 less withholding taxes remitted to the Internal Revenue Service,
1939 and the remaining DROP benefits must be transferred directly to
1940 the custodian of an eligible retirement plan as defined in s.
1941 402(c)(8)(B) of the Internal Revenue Code. However, in the case
1942 of an eligible rollover distribution to the surviving spouse of
1943 a deceased member ~~participant~~, an eligible retirement plan is an

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1944 individual retirement account or an individual retirement
1945 annuity as described in s. 402(c)(9) of the Internal Revenue
1946 Code. The proportions must be specified by the DROP participant
1947 or surviving beneficiary.

1948 c. The form of payment selected by the DROP participant or
1949 surviving beneficiary must comply with the minimum distribution
1950 requirements of the Internal Revenue Code.

1951 d. A DROP participant who fails to terminate all employment
1952 relationships as provided in s. 121.021(39) shall be deemed as
1953 not retired, and the DROP election is null and void. Florida
1954 Retirement System membership shall be reestablished
1955 retroactively to the date of the commencement of DROP, and each
1956 employer with whom the member ~~participant~~ continues employment
1957 must pay to the Florida Retirement System Trust Fund the
1958 difference between the DROP contributions paid in paragraph (i)
1959 and the contributions required for the applicable Florida
1960 Retirement System class of membership during the period the
1961 member participated in DROP, plus 6.5 percent interest
1962 compounded annually.

1963 6. The retirement benefits of any DROP participant who
1964 terminates all employment relationships as provided in s.
1965 121.021(39) but is reemployed in violation of the reemployment
1966 provisions of subsection (9) are ~~shall be~~ suspended during those
1967 months in which the retiree is in violation. Any retiree in
1968 violation of this subparagraph and any employer that employs or
1969 appoints such person without notifying the division ~~of~~
1970 ~~Retirement~~ to suspend retirement benefits are jointly and
1971 severally liable for any benefits paid during the reemployment
1972 limitation period. The employer must have a written statement

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1973 from the retiree that he or she is not retired from a state-
1974 administered retirement system. Any retirement benefits received
1975 by a retiree while employed in violation of the reemployment
1976 limitations must be repaid to the Florida Retirement System
1977 Trust Fund, and his or her retirement benefits shall remain
1978 suspended until payment is made. Benefits suspended beyond the
1979 end of the reemployment limitation period apply toward repayment
1980 of benefits received in violation of the reemployment
1981 limitation.

1982 7. The accrued benefits of any DROP participant, and any
1983 contributions accumulated under the program, are not subject to
1984 assignment, execution, attachment, or any legal process
1985 ~~whatsoever~~, except for qualified domestic relations court orders
1986 ~~by a court of competent jurisdiction~~, income deduction orders as
1987 provided in s. 61.1301, and federal income tax levies.

1988 8. DROP participants are not eligible for disability
1989 retirement benefits as provided in subsection (4).

1990 (14) PAYMENT OF BENEFITS.—This subsection applies to the
1991 payment of benefits to a payee (retiree or beneficiary) under
1992 the Florida Retirement System:

1993 (d) A payee whose retirement benefits are reduced by the
1994 application of maximum benefit limits under s. 415(b) of the
1995 Internal Revenue Code, as specified in s. 121.30(5), shall have
1996 the portion of his or her calculated benefit in the Florida
1997 Retirement System's pension System ~~defined benefit~~ plan which
1998 exceeds such federal limitation paid through the Florida
1999 Retirement System Preservation of Benefits Plan, as provided in
2000 s. 121.1001.

2001 Section 15. Subsection (1) and paragraph (a) of subsection

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2002 (2) of section 121.1001, Florida Statutes, are amended to read:

2003 121.1001 Florida Retirement System Preservation of Benefits
2004 Plan.—Effective July 1, 1999, the Florida Retirement System
2005 Preservation of Benefits Plan is established as a qualified
2006 governmental excess benefit arrangement pursuant to s. 415(m) of
2007 the Internal Revenue Code. The Preservation of Benefits Plan is
2008 created as a separate portion of the Florida Retirement System,
2009 for the purpose of providing benefits to a payee (retiree or
2010 beneficiary) of the Florida Retirement System whose benefits
2011 would otherwise be limited by s. 415(b) of the Internal Revenue
2012 Code.

2013 (1) ELIGIBILITY TO PARTICIPATE IN THE PRESERVATION OF
2014 BENEFITS PLAN.—A payee of the Florida Retirement System shall
2015 participate in the Preservation of Benefits Plan if ~~whenever~~ his
2016 or her earned benefit under the Florida Retirement System's
2017 pension System ~~defined benefit~~ plan exceeds the benefit maximum
2018 established under s. 415(b) of the Internal Revenue Code.
2019 Participation in the Preservation of Benefits Plan shall
2020 continue for as long as the payee's earned benefit under the
2021 pension ~~Florida Retirement System defined benefit~~ plan is
2022 reduced by the application of the maximum benefit limit under s.
2023 415(b) of the Internal Revenue Code.

2024 (2) BENEFITS PAYABLE UNDER THE PRESERVATION OF BENEFITS
2025 PLAN.—

2026 (a) On and after July 1, 1999, the division ~~of Retirement~~
2027 shall pay to each eligible payee of the Florida Retirement
2028 System who retires before, on, or after that ~~such~~ date, a
2029 supplemental retirement benefit equal to the difference between
2030 the amount of the payee's monthly retirement benefit which would

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2031 have been payable under the Florida Retirement System's pension
2032 ~~System defined benefit~~ plan if not for a reduction due to the
2033 application of s. 415(b) of the Internal Revenue Code and the
2034 reduced monthly retirement benefit as paid to the payee. The
2035 Preservation of Benefits Plan benefit shall be computed and
2036 payable under the same terms and conditions and to the same
2037 person as would have applied under the pension Florida
2038 ~~Retirement System defined benefit~~ plan were it not for the
2039 federal limitation.

2040 Section 16. Subsections (1) and (3) of section 121.101,
2041 Florida Statutes, are amended, present subsections (4) through
2042 (7) of that section are redesignated as subsections (5) through
2043 (8), respectively, and a new subsection (4) is added to that
2044 section, to read:

2045 121.101 Cost-of-living adjustment of benefits.—

2046 (1) The purpose of this section is to provide cost-of-
2047 living adjustments to the monthly benefits payable to ~~all~~
2048 retired members of state-supported retirement systems.

2049 (3) Commencing July 1, 1987, the benefit of each retiree
2050 and annuitant retiring before July 1, 2011, shall be adjusted
2051 annually on ~~each~~ July 1 ~~thereafter~~, as follows:

2052 (a) For those retirees and annuitants who have never
2053 received a cost-of-living adjustment under this section, the
2054 amount of the monthly benefit payable for the 12-month period
2055 commencing on the adjustment date shall be the amount of the
2056 member's initial benefit plus an amount equal to a percentage of
2057 the member's initial benefit; this percentage is derived by
2058 dividing the number of months the member has received an initial
2059 benefit by 12, and multiplying the result by 3.

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2060 (b) For those retirees and annuitants who have received a
2061 cost-of-living adjustment under this subsection ~~section~~, the
2062 adjusted monthly benefit shall be the amount of the monthly
2063 benefit being received on June 30 immediately preceding the
2064 adjustment date plus an amount equal to 3 percent of this
2065 benefit.

2066 (4) For members retiring on or after July 1, 2011, the
2067 benefit of each retiree and annuitant shall be adjusted annually
2068 on July 1 as follows:

2069 (a) For those retirees and annuitants who have never
2070 received a cost-of-living adjustment under this subsection, the
2071 amount of the monthly benefit payable for the 12-month period
2072 commencing on the adjustment date shall be the amount of the
2073 member's initial benefit plus an amount equal to a percentage of
2074 the member's initial benefit. This percentage is derived by
2075 dividing the number of months the member has received an initial
2076 benefit by 12, and multiplying the result by the factor
2077 calculated pursuant to paragraph (c).

2078 (b) For those retirees and annuitants who have received a
2079 cost-of-living adjustment under this subsection, the adjusted
2080 monthly benefit shall be the amount of the monthly benefit being
2081 received on June 30 immediately preceding the adjustment date
2082 plus an amount determined by multiplying the benefit by the
2083 factor calculated pursuant to paragraph (c).

2084 (c) The department shall calculate a cost-of-living factor
2085 for each retiree and beneficiary retiring on or after July 1,
2086 2011. This factor shall equal the product of 3 percent
2087 multiplied by the quotient of the sum of the member's service
2088 credit earned for service before July 1, 2011, divided by the

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2089 sum of the member's total service credit earned.

2090 Section 17. Subsection (1) of section 121.121, Florida
2091 Statutes, is amended to read:

2092 121.121 Authorized leaves of absence.—

2093 (1) A member may purchase creditable service for up to 2
2094 work years of authorized leaves of absence, including any leaves
2095 of absence covered under the Family Medical Leave Act, if:

2096 (a) The member has completed a minimum of 6 years of
2097 creditable service, excluding periods for which a leave of
2098 absence was authorized;

2099 (b) The leave of absence is authorized in writing by the
2100 employer of the member and approved by the administrator;

2101 (c) The member returns to active employment performing
2102 service with a Florida Retirement System employer in a regularly
2103 established position immediately upon termination of the leave
2104 of absence and remains on the employer's payroll for 1 calendar
2105 month, except that a member who retires on disability while on a
2106 medical leave of absence may ~~shall~~ not be required to return to
2107 employment. A member whose work year is less than 12 months and
2108 whose leave of absence terminates between school years is
2109 eligible to receive credit for the leave of absence if ~~as long~~
2110 ~~as~~ he or she returns to the employment ~~of his or her employer~~ at
2111 the beginning of the next school year and remains on the
2112 employer's payroll for 1 calendar month; and

2113 (d) The member makes the required contributions for service
2114 credit during the leave of absence, which shall be 8 percent
2115 until January 1, 1975, and 9 percent thereafter of his or her
2116 rate of monthly compensation in effect immediately before ~~prior~~
2117 ~~to~~ the commencement of such leave for each month of such period,

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2118 plus 4 percent interest until July 1, 1975, and 6.5 percent
2119 interest thereafter on such contributions, compounded annually
2120 each June 30 from the due date of the contribution to date of
2121 payment. Effective July 1, 1980, any leave of absence purchased
2122 pursuant to this section is shall be at the contribution rates
2123 specified in s. 121.071 or s. 121.71 in effect at the time the
2124 leave is granted for the class of membership from which the
2125 leave of absence was granted; however, any member who purchased
2126 leave-of-absence credit before ~~prior to~~ July 1, 1980, for a
2127 leave of absence from a position in a class other than the
2128 regular membership class, may pay the appropriate additional
2129 contributions plus compound interest thereon and receive
2130 creditable service for such leave of absence in the membership
2131 class from which the member was granted the leave of absence.
2132 Effective July 1, 2011, any leave of absence purchased pursuant
2133 to this section shall be at the employee and employer
2134 contribution rates specified in s. 121.71 in effect during the
2135 leave for the class of membership from which the leave of
2136 absence was granted.

2137 Section 18. Subsection (2) of section 121.122, Florida
2138 Statutes, is amended, and subsection (3) is added to that
2139 section, to read:

2140 121.122 Renewed membership in system.—

2141 (2) A retiree of a state-administered retirement system who
2142 is initially reemployed on or after July 1, 2010, through June
2143 30, 2011, shall become a member of the Regular Class and be
2144 enrolled in the Florida Retirement System Investment Plan on
2145 July 1, 2011, and must resatisfy the vesting requirements and
2146 other provisions provided in this chapter ~~is not eligible for~~

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2147 ~~renewed membership.~~ This subsection does not apply to retirees
2148 from the Elected Officers' Class or the Senior Management
2149 Service Class.

2150 (a) Creditable service, including credit towards the
2151 retiree health insurance subsidy provided in s. 112.363, does
2152 not accrue for a retiree's employment in a regularly established
2153 position with a covered employer during the period from July 1,
2154 2010, through June 30, 2011.

2155 (b) Employer contributions, interest, earnings, or any
2156 other funds may not be paid into a renewed member's investment
2157 plan account for any employment in a regularly established
2158 position with a covered employer during the period from July 1,
2159 2010, through June 30, 2011.

2160 (c) To be eligible to receive a retirement benefit under
2161 the investment plan, the renewed member must meet the vesting
2162 requirements of the plan as provided in s. 121.4501(6).

2163 (d) The member is not entitled to disability benefits as
2164 provided in s. 121.091(4) or s. 121.591(2).

2165 (e) The member must meet the limitations on reemployment
2166 after retirement as provided in s. 121.091(9), as applicable.

2167 (f) Upon the renewed membership or reemployment of a
2168 retiree, the employer of such member and the retiree shall pay
2169 the applicable employer and employee contributions as required
2170 by ss. 112.363, 121.71, 121.74, and 121.76. Such contributions
2171 are payable only for employment in a regularly established
2172 position with a covered employer on or after July 1, 2011.

2173 (g) The member may not purchase any prior or past service
2174 in the investment plan, including employment in a regularly
2175 established position with a covered employer during the period

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2176 from July 1, 2010, through June 30, 2011.

2177 (h) A renewed member who is not receiving the maximum
2178 health insurance subsidy provided in s. 112.363 is entitled to
2179 earn additional credit toward the subsidy. Such credit may be
2180 earned only for employment in a regularly established position
2181 with a covered employer on or after July 1, 2011. Any additional
2182 subsidy due because of additional credit may be received only at
2183 the time of paying the second career retirement benefit. The
2184 total health insurance subsidy received by a retiree receiving
2185 benefits from initial and renewed membership may not exceed the
2186 maximum allowed under s. 112.363.

2187 (3) Any retiree of a state-administered retirement system
2188 who is initially reemployed on or after July 1, 2011, except for
2189 retirees from the Elected Officers' Class or the Senior
2190 Management Service Class, shall become a member of the Regular
2191 Class and be enrolled in the Florida Retirement System
2192 Investment Plan, and must resatisfy the vesting requirements and
2193 other provisions of this chapter. Retirees from the Elected
2194 Officers' Class or the Senior Management Service Class may not
2195 be enrolled in a state-administered retirement system.

2196 (a) To be eligible to receive a retirement benefit under
2197 the investment plan, the renewed member must meet the vesting
2198 requirements of the investment plan as provided in s.
2199 121.4501(6).

2200 (b) The member is not entitled to disability benefits as
2201 provided in s. 121.091(4) or s. 121.591(2).

2202 (c) The member must meet the limitations on reemployment
2203 after retirement provided in s. 121.091(9), as applicable.

2204 (d) Upon renewed membership or reemployment of a retiree,

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2205 the employer of such member and the retiree must pay the
2206 applicable employer and employee contributions as required by
2207 ss. 112.363, 121.71, 121.74, and 121.76.

2208 (e) The member may not purchase any prior or past service
2209 in the investment plan.

2210 (f) A renewed member who is not receiving the maximum
2211 health insurance subsidy provided in s. 112.363 is entitled to
2212 earn additional credit toward the subsidy. Any additional
2213 subsidy due because of additional credit may be received only at
2214 the time of paying the second career retirement benefit. The
2215 total health insurance subsidy received by a retiree receiving
2216 benefits from initial and renewed membership may not exceed the
2217 maximum allowed under s. 112.363.

2218 Section 19. Section 121.125, Florida Statutes, is amended
2219 to read:

2220 121.125 Credit for workers' compensation payment periods.—A
2221 member of the retirement system created by this chapter who has
2222 been eligible or becomes eligible for ~~to receive~~ workers'
2223 compensation payments for an injury or illness that occurred
2224 ~~occurring~~ during ~~his or her~~ employment while a member of a any
2225 state retirement system shall, upon return to active employment
2226 with a covered employer for 1 calendar month or upon approval
2227 for disability retirement in accordance with s. 121.091(4),
2228 receive full retirement credit for the period before ~~prior to~~
2229 such return to active employment or disability retirement for
2230 which the workers' compensation payments were received. However,
2231 a ~~no~~ member may not receive retirement credit for ~~any~~ such
2232 period occurring after the earlier of the date of maximum
2233 medical improvement as defined in s. 440.02 or the date

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2234 termination has occurred as defined in s. 121.021(39). The
2235 employer of record at the time of the worker's compensation
2236 injury or illness shall make the required employee and employer
2237 retirement contributions based on the member's rate of monthly
2238 compensation immediately before ~~prior to his or her~~ receiving
2239 workers' compensation payments for retirement credit received by
2240 the member. The employer of record at the time of the workers'
2241 compensation injury or illness shall be assessed by the division
2242 a penalty of 1 percent of the contributions on all contributions
2243 not paid on the first payroll report after the member becomes
2244 eligible to receive credit. This delinquent assessment may not
2245 be waived.

2246 Section 20. Paragraphs (g) and (i) of subsection (3) and
2247 subsections (4) and (5) of section 121.35, Florida Statutes, are
2248 amended to read:

2249 121.35 Optional retirement program for the State University
2250 System.—

2251 (3) ELECTION OF OPTIONAL PROGRAM.—

2252 (g) An eligible employee who is a member of the Florida
2253 Retirement System at the time of electing ~~election~~ to
2254 participate in the optional retirement program shall retain all
2255 retirement service credit earned under the Florida Retirement
2256 System, ~~at the rate earned. No~~ Additional service credit in the
2257 ~~Florida Retirement~~ system may not shall be earned while the
2258 employee participates in the optional program, and nor shall the
2259 employee is not be eligible for disability retirement under the
2260 ~~Florida Retirement~~ system. An eligible employee may transfer
2261 from the Florida Retirement System to his or her accounts under
2262 the State University System Optional Retirement Program a sum

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2263 representing the present value of the employee's accumulated
2264 benefit obligation under the ~~defined benefit program of the~~
2265 Florida Retirement System's pension plan System for any service
2266 credit accrued from the employee's first eligible transfer date
2267 to the optional retirement program through the actual date of
2268 such transfer, if such service credit was earned ~~in the period~~
2269 from July 1, 1984, through December 31, 1992. The present value
2270 of the employee's accumulated benefit obligation shall be
2271 calculated as described in s. 121.4501(3) ~~s. 121.4501(3)(c)2.~~
2272 Upon ~~such~~ transfer, all ~~such~~ service credit ~~previously~~ earned
2273 under the pension plan ~~defined benefit program of the Florida~~
2274 ~~Retirement System~~ during this period is ~~shall be~~ nullified for
2275 purposes of entitlement to a future benefit under the pension
2276 plan ~~defined benefit program of the Florida Retirement System.~~

2277 (i) Effective January 1, 2008, through December 31, 2008,
2278 except for an employee who is a mandatory member ~~participant~~ of
2279 the State University System Optional Retirement Program, an
2280 employee who has elected to participate in the State University
2281 System Optional Retirement Program shall have one opportunity,
2282 at the employee's discretion, ~~to choose~~ to transfer from this
2283 program to the pension plan or the investment plan ~~defined~~
2284 ~~benefit program of the Florida Retirement System or to the~~
2285 ~~Public Employee Optional Retirement Program~~, subject to the
2286 terms of the applicable contracts of the State University System
2287 Optional Retirement Program.

2288 1. If the employee chooses to move to the investment plan
2289 ~~Public Employee Optional Retirement Program~~, any contributions,
2290 interest, and earnings creditable to the employee under the
2291 State University System Optional Retirement Program must ~~shall~~

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2292 be retained by the employee in the State University System
2293 Optional Retirement Program, and the applicable provisions of s.
2294 121.4501(4) shall govern the election.

2295 2. If the employee chooses to move to the pension plan
2296 ~~defined benefit program of the Florida Retirement System~~, the
2297 employee shall receive service credit equal to his or her years
2298 of service under the State University System Optional Retirement
2299 Program.

2300 a. The cost for such credit must be in ~~shall be~~ an amount
2301 representing the actuarial accrued liability for the affected
2302 period of service. The cost must ~~shall~~ be calculated using the
2303 discount rate and other relevant actuarial assumptions that were
2304 used to value the pension ~~Florida Retirement System defined~~
2305 ~~benefit~~ plan liabilities in the most recent actuarial valuation.
2306 The calculation must ~~shall~~ include any service already
2307 maintained under the pension ~~defined benefit~~ plan in addition to
2308 the years under the State University System Optional Retirement
2309 Program. The actuarial accrued liability of any service already
2310 maintained under the pension ~~defined benefit~~ plan must ~~shall~~ be
2311 applied as a credit to total cost resulting from the
2312 calculation. The division must ~~shall~~ ensure that the transfer
2313 sum is prepared using a formula and methodology certified by an
2314 enrolled actuary.

2315 b. The employee must transfer from his or her State
2316 University System Optional Retirement Program account, and from
2317 other employee moneys as necessary, a sum representing the
2318 actuarial accrued liability immediately following the time of
2319 such movement, determined assuming that attained service equals
2320 the sum of service in the pension plan ~~defined benefit program~~

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2321 and service in the State University System Optional Retirement
2322 Program.

2323 (4) CONTRIBUTIONS.—

2324 (a)1. Through June 30, 2001, each employer shall contribute
2325 on behalf of each member of ~~participant in~~ the optional
2326 retirement program an amount equal to the normal cost portion of
2327 the employer retirement contribution which would be required if
2328 the employee ~~participant~~ were a regular member of the Florida
2329 Retirement System's pension plan ~~System defined benefit program~~,
2330 plus the portion of the contribution rate required in s.

2331 112.363(8) that would otherwise be assigned to the Retiree
2332 Health Insurance Subsidy Trust Fund.

2333 2. Effective July 1, 2001, through June 30, 2011, each
2334 employer shall contribute on behalf of each member of
2335 ~~participant in~~ the optional retirement program an amount equal
2336 to 10.43 percent of the employee's ~~participant's~~ gross monthly
2337 compensation.

2338 3. Effective July 1, 2011, each member of the optional
2339 retirement program shall contribute an amount equal to the
2340 employee contribution required in s. 121.71(3). The employer
2341 shall contribute on behalf of each such member an amount equal
2342 to the difference between 10.43 percent of the employee's gross
2343 monthly compensation and the amount equal to the employee's
2344 required contribution based on the employee's gross monthly
2345 compensation.

2346 4. ~~The department shall deduct an amount approved by the~~
2347 ~~Legislature to provide for the administration of this program.~~
2348 The payment of the contributions, including contributions by the
2349 employee, ~~to the optional program which is required by this~~

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2350 ~~paragraph for each participant~~ shall be made by the employer to
2351 the department, which shall forward the contributions to the
2352 designated company or companies contracting for payment of
2353 benefits for member's of ~~the participant under~~ the program.
2354 However, such contributions paid on behalf of an employee
2355 described in paragraph (3)(c) may ~~shall~~ not be forwarded to a
2356 company and do ~~shall~~ not begin to accrue interest until the
2357 employee has executed a contract and notified the department.
2358 The department shall deduct an amount from the contributions to
2359 provide for the administration of this program.

2360 (b) Each employer shall contribute on behalf of each member
2361 of ~~participant in~~ the optional retirement program an amount
2362 equal to the unfunded actuarial accrued liability portion of the
2363 employer contribution which would be required for members of the
2364 Florida Retirement System. This contribution shall be paid to
2365 the department for transfer to the Florida Retirement System
2366 Trust Fund.

2367 (c) An Optional Retirement Program Trust Fund shall be
2368 established in the State Treasury and administered by the
2369 department to make payments to the provider companies on behalf
2370 of ~~the~~ optional retirement program members ~~participants~~, and to
2371 transfer the unfunded liability portion of the state optional
2372 retirement program contributions to the Florida Retirement
2373 System Trust Fund.

2374 (d) Contributions required for social security by each
2375 employer and each employee ~~participant~~, in the amount required
2376 for social security coverage as now or hereafter may be provided
2377 by the federal Social Security Act, shall be maintained for each
2378 member of ~~participant in~~ the optional retirement program and are

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2379 ~~shall be~~ in addition to the retirement contributions specified
2380 in this subsection.

2381 (e) Each member of participant ~~in~~ the optional retirement
2382 program who has executed a contract may contribute by way of
2383 salary reduction or deduction a percentage amount of the
2384 employee's participant's gross compensation not to exceed the
2385 percentage amount contributed by the employer to the optional
2386 program, but ~~in no case may~~ such contribution may not exceed
2387 federal limitations. Payment of the employee's participant's
2388 contributions shall be made by the financial officer of the
2389 employer to the division which shall forward the contributions
2390 to the designated company or companies contracting for payment
2391 of benefits for members ~~the participant~~ under the program. A
2392 member participant may not make, through salary reduction, any
2393 voluntary employee contributions to any other plan under s.
2394 403(b) of the Internal Revenue Code, with the exception of a
2395 custodial account under s. 403(b)(7) of the Internal Revenue
2396 Code, until he or she has made an employee contribution to his
2397 or her optional program equal to the employer contribution. An
2398 employee ~~A participant~~ is responsible for monitoring his or her
2399 individual tax-deferred income to ensure he or she does not
2400 exceed the maximum deferral amounts permitted under the Internal
2401 Revenue Code.

2402 (f) The Optional Retirement Trust Fund may accept for
2403 deposit into member participant contracts contributions in the
2404 form of rollovers or direct trustee-to-trustee transfers by or
2405 on behalf of members participants who are reasonably determined
2406 by the department to be eligible for rollover or transfer to the
2407 optional retirement program pursuant to the Internal Revenue

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2408 Code, if such contributions are made in accordance with rules
 2409 adopted by the department. Such contributions shall be accounted
 2410 for in accordance with any applicable requirements of the
 2411 Internal Revenue Code and department rules ~~of the department~~.

2412 (g) Effective July 1, 2008, for purposes of paragraph (a)
 2413 and notwithstanding s. 121.021(22)(b)1., the term "employee's
 2414 ~~participant's~~ gross monthly compensation" includes salary
 2415 payments made to eligible clinical faculty from a state
 2416 university using funds provided by a faculty practice plan
 2417 authorized by the Board of Governors of the State University
 2418 System if:

2419 1. There is no ~~not any~~ employer contribution from the state
 2420 university to any other retirement program with respect to such
 2421 salary payments; and

2422 2. The employer contribution on behalf of a member of the
 2423 ~~participant in~~ the optional retirement program with respect to
 2424 such salary payments is made using funds provided by the faculty
 2425 practice plan.

2426 (5) BENEFITS.—

2427 (a) Benefits are payable under the optional retirement
 2428 program only to vested members participating ~~participants~~ in the
 2429 program, or their beneficiaries as designated by the member
 2430 ~~participant~~ in the contract with a provider company, and such
 2431 benefits shall be paid only by the designated company in
 2432 accordance with s. 403(b) of the Internal Revenue Code and the
 2433 terms of the annuity contract or contracts applicable to the
 2434 member participant. Benefits accrue in individual accounts that
 2435 are member-directed ~~participant-directed~~, portable, and funded
 2436 by employer contributions and the earnings thereon. The member

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2437 ~~participant~~ must be terminated for 3 calendar months from all
2438 employment relationships with all Florida Retirement System
2439 employers, as provided in s. 121.021(39), to begin receiving the
2440 ~~employer-funded~~ benefit. Benefits funded by employer
2441 contributions are payable in accordance with the following terms
2442 and conditions:

2443 1. Benefits shall be paid only to a participating member
2444 ~~participant~~, to his or her beneficiaries, or to his or her
2445 estate, as designated by the member participant.

2446 2. Benefits shall be paid by the provider company or
2447 companies in accordance with the law, the provisions of the
2448 contract, and any applicable department rule or policy.

2449 3. In the event of a member's participant's death, moneys
2450 accumulated by, or on behalf of, the member participant, less
2451 withholding taxes remitted to the Internal Revenue Service, if
2452 any, shall be distributed to the member's participant's
2453 designated beneficiary or beneficiaries, or to the member's
2454 ~~participant's~~ estate, as if the member participant retired on
2455 the date of death, as provided in paragraph (d) ~~(e)~~. No other
2456 death benefits are available to survivors of members
2457 ~~participants~~ under the optional retirement program except for
2458 such benefits, or coverage for such benefits, as are separately
2459 afforded by the employer, at the employer's discretion.

2460 (b) Benefits are not payable for employee hardships,
2461 unforeseeable emergencies, loans, medical expenses, educational
2462 expenses, purchase of a principal residence, payments necessary
2463 to prevent eviction or foreclosure on an employee's principal
2464 residence, or any other reason before termination from all
2465 employment relationships with participating employers, as

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2466 provided in s. 121.021(39).

2467 (c)~~(b)~~ Upon receipt by the provider company of a properly
2468 executed application for distribution of benefits, the total
2469 accumulated benefit are ~~shall be~~ payable to the participating
2470 member participant, as:

2471 1. A lump-sum distribution to the member participant;

2472 2. A lump-sum direct rollover distribution whereby all
2473 accrued benefits, plus interest and investment earnings, are
2474 paid from the participant's account directly to an eligible
2475 retirement plan, as defined in s. 402(c)(8)(B) of the Internal
2476 Revenue Code, on behalf of the member participant;

2477 3. Periodic distributions;

2478 4. A partial lump-sum payment whereby a portion of the
2479 accrued benefit is paid to the member participant and the
2480 remaining amount is transferred to an eligible retirement plan,
2481 as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on
2482 behalf of the member participant; or

2483 5. Such other distribution options as are provided ~~for~~ in
2484 the participant's optional retirement program contract.

2485 (d)~~(e)~~ Survivor benefits are ~~shall be~~ payable as:

2486 1. A lump-sum distribution payable to the beneficiaries or
2487 to the deceased member's participant's estate;

2488 2. An eligible rollover distribution on behalf of the
2489 surviving spouse of a deceased member participant, whereby all
2490 accrued benefits, plus interest and investment earnings, are
2491 paid from the deceased member's participant's account directly
2492 to an eligible retirement plan, as described in s. 402(c)(8)(B)
2493 of the Internal Revenue Code, on behalf of the surviving spouse;

2494 3. Such other distribution options as are provided ~~for~~ in

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2495 the member's ~~participant's~~ optional retirement program contract;
2496 or

2497 4. A partial lump-sum payment whereby a portion of the
2498 accrued benefit is paid to the deceased member's ~~participant's~~
2499 surviving spouse or other designated beneficiaries, less
2500 withholding taxes remitted to the Internal Revenue Service, if
2501 any, and the remaining amount is transferred directly to an
2502 eligible retirement plan, as described in s. 402(c)(8)(B) of the
2503 Internal Revenue Code, on behalf of the surviving spouse. The
2504 proportions must be specified by the member ~~participant~~ or the
2505 surviving beneficiary.

2506
2507 This paragraph does not abrogate other applicable provisions of
2508 state or federal law providing payment of death benefits.

2509 (e) ~~(d)~~ The benefits payable to any person under the
2510 optional retirement program, and any contribution accumulated
2511 under such program, are ~~shall~~ not ~~be~~ subject to assignment,
2512 execution, or attachment or to any legal process ~~whatsoever~~.

2513 (f) ~~(e)~~ A participating member ~~participant~~ who chooses to
2514 receive his or her benefits must be terminated for 3 calendar
2515 months to be eligible to receive benefits funded by employer
2516 contributions. The member upon termination as defined in s.
2517 121.021 must notify the provider company of the date he or she
2518 wishes benefits funded by required employer and employee
2519 contributions to begin and must be terminated as defined in s.
2520 121.021 after the initial benefit payment or distribution.
2521 Benefits may be deferred until the member ~~participant~~ chooses to
2522 make such application.

2523 (g) ~~(f)~~ Benefits funded by the participating member's

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2524 voluntary participant's personal contributions may be paid out
2525 at any time and in any form within the limits provided in the
2526 contract between the member participant and the his or her
2527 provider company. The member participant shall notify the
2528 provider company regarding the date and provisions under which
2529 he or she wants to receive the employee-funded portion of the
2530 plan.

2531 (h) ~~(g)~~ For purposes of this section, "retiree" means a
2532 former participating member participant of the optional
2533 retirement program who has terminated employment and has taken a
2534 distribution as provided in this subsection, except for a
2535 mandatory distribution of a de minimis account authorized by the
2536 department.

2537 Section 21. Section 121.355, Florida Statutes, is amended
2538 to read:

2539 121.355 Community College Optional Retirement Program and
2540 State University System Optional Retirement Program member
2541 transfer.—Effective January 1, 2009, through December 31, 2009,
2542 an employee who is a former member of participant in the
2543 Community College Optional Retirement Program or the State
2544 University System Optional Retirement Program and present
2545 mandatory member of participant in the Florida Retirement
2546 System's pension System defined benefit plan may receive service
2547 credit equal to his or her years of service under the Community
2548 College Optional Retirement Program or the State University
2549 System Optional Retirement Program under the following
2550 conditions:

2551 (1) The cost for such credit must represent ~~shall be an~~
2552 ~~amount representing~~ the actuarial accrued liability for the

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2553 affected period of service. The cost shall be calculated using
2554 the discount rate and other relevant actuarial assumptions that
2555 were used to value the Florida Retirement System's pension
2556 ~~System defined benefit~~ plan liabilities in the most recent
2557 actuarial valuation. The calculation must ~~shall~~ include any
2558 service already maintained under the pension ~~defined benefit~~
2559 plan in addition to the years under the Community College
2560 Optional Retirement Program or the State University System
2561 Optional Retirement Program. The actuarial accrued liability of
2562 any service already maintained under the pension ~~defined benefit~~
2563 plan shall be applied as a credit to total cost resulting from
2564 the calculation. The division shall ensure that the transfer sum
2565 is prepared using a formula and methodology certified by an
2566 enrolled actuary.

2567 (2) The employee must transfer from his or her Community
2568 College Optional Retirement Program account or State University
2569 System Optional Retirement Program account, subject to the terms
2570 of the applicable optional retirement program contract, and from
2571 other employee moneys as necessary, a sum representing the
2572 actuarial accrued liability immediately following the time of
2573 such movement, determined assuming that attained service equals
2574 the sum of service in the pension plan ~~defined benefit program~~
2575 and service in the Community College Optional Retirement Program
2576 or State University System Optional Retirement Program.

2577 (3) The employee may not receive service credit for a
2578 period of mandatory participation in the State University
2579 Optional Retirement Program or for a period for which a
2580 distribution was received from the Community College Optional
2581 Retirement Program or State University System Optional

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2582 Retirement Program.

2583 Section 22. Section 121.4501, Florida Statutes, is amended
2584 to read:

2585 121.4501 Florida Public Employee Optional Retirement System
2586 Investment Plan Program.—

2587 (1) The Trustees of the State Board of Administration shall
2588 establish a ~~an optional~~ defined contribution ~~retirement~~ program
2589 called the Florida Retirement System Investment Plan for members
2590 of the Florida Retirement System under which retirement benefits
2591 are will be provided for eligible employees initially employed
2592 before July 1, 2011, who elect to enroll participate in the
2593 plan. Enrollment is compulsory for members of the Elected
2594 Officers' Class and the Senior Management Class, who are
2595 employed on or after July 1, 2011, except for those who are
2596 eligible to and elect to enroll in an optional retirement
2597 program established under s. 121.055(6), s. 121.35, or s.
2598 1012.875, or those who qualify for special risk membership
2599 pursuant to s. 121.0515 program. The retirement benefits ~~to be~~
2600 ~~provided for or on behalf of participants in such optional~~
2601 ~~retirement program~~ shall be provided through employee-directed
2602 investments, in accordance with s. 401(a) of the Internal
2603 Revenue Code and ~~its~~ related regulations. ~~The Employers and~~
2604 employees shall make contributions ~~contribute~~, as provided in
2605 this section and~~7~~ ss. 121.571~~7~~ and 121.71~~7~~, to the Florida Public
2606 Employee Optional Retirement System Investment Plan Program
2607 Trust Fund toward the funding of ~~such optional~~ benefits.

2608 (2) DEFINITIONS.—As used in this part, the term:

2609 (a) "Approved provider" or "provider" means a private
2610 sector company that is selected and approved by the state board

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2611 to offer one or more investment products or services to the
2612 investment plan ~~optional retirement program~~. The term includes a
2613 bundled provider that offers plan members ~~participants~~ a range
2614 of individually allocated or unallocated investment products and
2615 may offer a range of administrative and customer services, which
2616 may include accounting and administration of individual member
2617 ~~participant~~ benefits and contributions; individual member
2618 ~~participant~~ recordkeeping; asset purchase, control, and
2619 safekeeping; direct execution of the member's ~~participant's~~
2620 instructions as to asset and contribution allocation;
2621 calculation of daily net asset values; direct access to member
2622 ~~participant~~ account information; periodic reporting to members
2623 ~~participants~~, at least quarterly, on account balances and
2624 transactions; guidance, advice, and allocation services directly
2625 relating to the provider's own investment options or products,
2626 but only if the bundled provider complies with the standard of
2627 care of s. 404(a)(1)(A-B) of the Employee Retirement Income
2628 Security Act of 1974 (ERISA) and if providing such guidance,
2629 advice, or allocation services does not constitute a prohibited
2630 transaction under s. 4975(c)(1) of the Internal Revenue Code or
2631 s. 406 of ERISA, notwithstanding that such prohibited
2632 transaction provisions do not apply to the ~~optional~~ retirement
2633 program; a broad array of distribution options; asset
2634 allocation; and retirement counseling and education. Private
2635 sector companies include investment management companies,
2636 insurance companies, depositories, and mutual fund companies.

2637 (b) "Average monthly compensation" means one-twelfth of
2638 average final compensation as defined in s. 121.021.

2639 (c) "Covered employment" means employment in a regularly

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2640 established position as defined in s. 121.021.

2641 ~~(d) "Defined benefit program" means the defined benefit~~
2642 ~~program of the Florida Retirement System administered under part~~
2643 ~~I of this chapter.~~

2644 ~~(e) "Division" means the Division of Retirement within the~~
2645 ~~department.~~

2646 (d) ~~(f)~~ "Electronic means" means by telephone, if the
2647 required information is received on a recorded line, or through
2648 Internet access, if the required information is captured online.

2649 ~~(g) "Eligible employee" means an officer or employee, as~~
2650 ~~defined in s. 121.021, who:~~

2651 ~~1. Is a member of, or is eligible for membership in, the~~
2652 ~~Florida Retirement System, including any renewed member of the~~
2653 ~~Florida Retirement System initially enrolled before July 1,~~
2654 ~~2010; or~~

2655 ~~2. Participates in, or is eligible to participate in, the~~
2656 ~~Senior Management Service Optional Annuity Program as~~
2657 ~~established under s. 121.055(6), the State Community College~~
2658 ~~System Optional Retirement Program as established under s.~~
2659 ~~121.051(2) (c), or the State University System Optional~~
2660 ~~Retirement Program established under s. 121.35.~~

2661
2662 ~~The term does not include any member participating in the~~
2663 ~~Deferred Retirement Option Program established under s.~~
2664 ~~121.091(13), a retiree of a state-administered retirement system~~
2665 ~~initially reemployed on or after July 1, 2010, or a mandatory~~
2666 ~~participant of the State University System Optional Retirement~~
2667 ~~Program established under s. 121.35.~~

2668 (e) ~~(h)~~ "Employer" means an employer, as defined in s.

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2669 121.021, of an eligible employee.

2670 (f) "Florida Retirement System Investment Plan" or
2671 "investment plan" means the defined contribution program of the
2672 Florida Retirement System established under this part.

2673 (g) "Florida Retirement System Pension Plan" or pension
2674 plan" means the defined benefit program of the Florida
2675 Retirement System administered under part I of this chapter.

2676 ~~(i) "Optional retirement program" or "optional program"~~
2677 ~~means the Public Employee Optional Retirement Program~~
2678 ~~established under this part.~~

2679 ~~(h)-(j)~~ "Member" or "employee" "participant" means an
2680 eligible employee who is enrolled enrolls in the investment plan
2681 optional program as provided in subsection (4), or a terminated
2682 Deferred Retirement Option Program member participant as
2683 described in subsection (21), or a beneficiary or alternate
2684 payee of a member or employee.

2685 (i) "Member contributions" or "employee contributions" mean
2686 the sum of all amounts deducted from the salary of a member by
2687 his or her employer in accordance with s. 121.71(2) and credited
2688 to his or her individual account in the investment plan, plus
2689 any earnings on such amounts and any contributions specified in
2690 paragraph (5) (e).

2691 ~~(j)-(k)~~ "Retiree" means a former member participant of the
2692 investment plan optional retirement program who has terminated
2693 employment and has taken a distribution of vested employer or
2694 employee contributions as provided in s. 121.591, except for a
2695 mandatory distribution of a de minimis account authorized by the
2696 state board.

2697 ~~(k)-(l)~~ "Vested" or "vesting" means the guarantee that a

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2698 ~~member participant~~ is eligible to receive a retirement benefit
2699 upon completion of the required years of service under the
2700 investment plan optional retirement program.

2701 (3) ~~ELIGIBILITY;~~ RETIREMENT SERVICE CREDIT; TRANSFER OF
2702 BENEFITS.—

2703 ~~(a) Participation in the Public Employee Optional~~
2704 ~~Retirement Program is limited to eligible employees.~~
2705 ~~Participation in the optional retirement program is in lieu of~~
2706 ~~participation in the defined benefit program of the Florida~~
2707 ~~Retirement System.~~

2708 ~~(a)~~ (b) An eligible employee who is employed in a regularly
2709 established position by a state employer on June 1, 2002; by a
2710 district school board employer on September 1, 2002; or by a
2711 local employer on December 1, 2002, and who is a member of the
2712 pension plan defined benefit retirement program of the Florida
2713 ~~Retirement System~~ at the time of his or her election to enroll
2714 ~~participate~~ in the investment plan Public Employee Optional
2715 ~~Retirement Program~~ shall retain all retirement service credit
2716 earned under the pension plan defined benefit retirement program
2717 ~~of the Florida Retirement System~~ as credited under the Florida
2718 Retirement System and is ~~shall be~~ entitled to a deferred benefit
2719 upon termination, ~~if eligible under the system~~. However,
2720 election to enroll ~~participate~~ in the investment plan Public
2721 ~~Employee Optional Retirement Program~~ terminates the active
2722 membership of the employee in the pension plan defined benefit
2723 ~~program of the Florida Retirement System~~, and the service of a
2724 member of participant in the investment plan is Public Employee
2725 ~~Optional Retirement Program~~ shall not be creditable under the
2726 pension plan defined benefit retirement program of the Florida

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2727 ~~Retirement System~~ for purposes of benefit accrual but is
2728 creditable ~~shall be credited~~ for purposes of vesting.

2729 (b)(e)1. ~~Notwithstanding paragraph (a), an (b),~~ each
2730 eligible employee who elects to enroll ~~participate~~ in the
2731 investment plan ~~Public Employee Optional Retirement Program~~ and
2732 establishes one or more individual member ~~participant~~ accounts
2733 ~~under the optional program~~ may elect to transfer to the
2734 investment plan ~~optional program~~ a sum representing the present
2735 value of the employee's accumulated benefit obligation under the
2736 pension plan ~~defined benefit retirement program of the Florida~~
2737 ~~Retirement System~~. Upon ~~such~~ transfer, all service credit
2738 ~~previously~~ earned under the pension plan ~~is defined benefit~~
2739 ~~program of the Florida Retirement System~~ shall be nullified for
2740 purposes of entitlement to a future benefit under the pension
2741 plan ~~defined benefit program of the Florida Retirement System~~. A
2742 member may not transfer ~~participant is precluded from~~
2743 ~~transferring~~ the accumulated benefit obligation balance from the
2744 pension plan after the time ~~defined benefit program upon the~~
2745 ~~expiration of the period for enrolling~~ afforded to enroll in the
2746 investment plan ~~has expired~~ ~~optional program~~.

2747 1.2. For purposes of this subsection, the present value of
2748 the member's accumulated benefit obligation is based upon the
2749 member's estimated creditable service and estimated average
2750 final compensation under the pension plan ~~defined benefit~~
2751 ~~program~~, subject to recomputation under subparagraph 2. ~~3.~~ For
2752 state employees ~~enrolling under subparagraph (4)(a)1.~~, initial
2753 estimates shall ~~will~~ be based upon creditable service and
2754 average final compensation as of midnight on June 30, 2002; for
2755 district school board employees ~~enrolling under subparagraph~~

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2756 ~~(4)(b)1.~~, initial estimates shall ~~will~~ be based upon creditable
2757 service and average final compensation as of midnight on
2758 September 30, 2002; and for local government employees ~~enrolling~~
2759 ~~under subparagraph (4)(c)1.~~, initial estimates shall ~~will~~ be
2760 based upon creditable service and average final compensation as
2761 of midnight on December 31, 2002. The dates ~~respectively~~
2762 specified are above ~~shall be construed as~~ the "estimate date"
2763 for these employees. The actuarial present value of the
2764 employee's accumulated benefit obligation shall be based on the
2765 following:

2766 a. The discount rate and other relevant actuarial
2767 assumptions used to value the Florida Retirement System Trust
2768 Fund at the time the amount to be transferred is determined,
2769 consistent with the factors provided in sub-subparagraphs b. and
2770 c.

2771 b. A benefit commencement age, based on the member's
2772 estimated creditable service as of the estimate date. The
2773 benefit commencement age is ~~shall be~~ the younger of the
2774 following, but may ~~shall~~ not be younger than the member's age as
2775 of the estimate date:

2776 (I) Age 62; or

2777 (II) The age the member would attain if the member
2778 completed 30 years of service with an employer, assuming the
2779 member worked continuously from the estimate date, and
2780 disregarding any vesting requirement that would otherwise apply
2781 under the pension plan ~~defined benefit program of the Florida~~
2782 ~~Retirement System.~~

2783 c. For members of the Special Risk Class, and for members
2784 of the Special Risk Administrative Support Class entitled to

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2785 retain the special risk normal retirement date, the benefit
2786 commencement age is ~~shall be~~ the younger of the following, but
2787 may ~~shall~~ not be younger than the member's age as of the
2788 estimate date:

2789 (I) Age 55 or, for members enrolled on or after July 1,
2790 2011, age 62; or

2791 (II) The age the member would attain if the member
2792 completed 25 years of service with an employer, or, for members
2793 enrolled on or after July 1, 2011, 30 years of service with an
2794 employer, assuming the member worked continuously from the
2795 estimate date, and disregarding any vesting requirement that
2796 would otherwise apply under the pension plan defined benefit
2797 program of the Florida Retirement System.

2798 d. The calculation must ~~shall~~ disregard vesting
2799 requirements and early retirement reduction factors that would
2800 otherwise apply under the pension plan defined benefit
2801 retirement program.

2802 ~~2.3.~~ For each member participant who elects to transfer
2803 moneys from the pension plan defined benefit program to his or
2804 her account in the investment plan optional program, the
2805 division shall recompute the amount transferred under
2806 subparagraph 1. ~~within 2. not later than~~ 60 days after the
2807 actual transfer of funds based upon the member's participant's
2808 actual creditable service and actual final average compensation
2809 as of the initial date of participation in the investment plan
2810 optional program. If the recomputed amount differs from the
2811 amount transferred ~~under subparagraph 2.~~ by \$10 or more, the
2812 division shall:

2813 a. Transfer, or cause to be transferred, from the Florida

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2814 Retirement System Trust Fund to the member's ~~participant's~~
2815 account ~~in the optional program~~ the excess, if any, of the
2816 recomputed amount over the previously transferred amount
2817 together with interest from the initial date of transfer to the
2818 date of transfer under this subparagraph, based upon the
2819 effective annual interest equal to the assumed return on the
2820 actuarial investment which was used in the most recent actuarial
2821 valuation of the system, compounded annually.

2822 b. Transfer, or cause to be transferred, from the member's
2823 ~~participant's~~ account to the Florida Retirement System Trust
2824 Fund the excess, if any, of the previously transferred amount
2825 over the recomputed amount, together with interest from the
2826 initial date of transfer to the date of transfer under this
2827 subparagraph, based upon 6 percent effective annual interest,
2828 compounded annually, pro rata based on the member's
2829 ~~participant's~~ allocation plan.

2830 3. If contribution adjustments are made as a result of
2831 employer errors or corrections, including plan corrections,
2832 following recomputation of the amount transferred under
2833 subparagraph 1., the member is entitled to the additional
2834 contributions or is responsible for returning any excess
2835 contributions resulting from the correction. However, the return
2836 of such erroneous excess pretax contribution by the plan must be
2837 made within the period allowed by the Internal Revenue Service.
2838 The present value of the member's accumulated benefit obligation
2839 may not be recalculated.

2840 4. As directed by the member ~~participant~~, the state board
2841 shall transfer or cause to be transferred the appropriate
2842 amounts to the designated accounts within. ~~The board shall~~

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2843 ~~establish transfer procedures by rule, but the actual transfer~~
2844 ~~shall not be later than~~ 30 days after the effective date of the
2845 member's participation in the investment plan ~~optional program~~
2846 unless the major financial markets for securities available for
2847 a transfer are seriously disrupted by an unforeseen event that
2848 ~~which also~~ causes the suspension of trading on any national
2849 securities exchange in the country where the securities are ~~were~~
2850 issued. In that event, the ~~such~~ 30-day period ~~of time~~ may be
2851 extended by a resolution of the state board ~~trustees~~. Transfers
2852 are not commissionable or subject to other fees and may be in
2853 the form of securities or cash, as determined by the state
2854 board. Such securities are ~~shall be~~ valued as of the date of
2855 receipt in the member's participant's account.

2856 5. If the state board or the division receives notification
2857 from the United States Internal Revenue Service that this
2858 paragraph or any portion of this paragraph will cause the
2859 retirement system, or a portion thereof, to be disqualified for
2860 tax purposes under the Internal Revenue Code, ~~then~~ the portion
2861 that will cause the disqualification does not apply. Upon such
2862 notice, the state board and the division shall notify the
2863 presiding officers of the Legislature.

2864 (4) PARTICIPATION; ENROLLMENT.—

2865 (a) ~~1.~~ Between June 1, 2001, and February 28, 2003, eligible
2866 employees were provided a 90-day period to elect membership in
2867 the investment plan. An employee who failed to elect the
2868 investment plan during the election period remained in the
2869 pension plan. An eligible employee who was employed in a
2870 regularly established position during the election period was
2871 also provided one opportunity to change plans, as provided under

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2872 paragraph (e). With respect to an eligible employee who did not
2873 participate in the initial election period and an eligible
2874 employee who is initially employed in a regularly established
2875 position after the close of the initial election period but
2876 before June 30, 2011, the ~~on June 1, 2002, by a state employer:~~

2877 a. ~~Any such employee may elect to participate in the Public~~
2878 ~~Employee Optional Retirement Program in lieu of retaining his or~~
2879 ~~her membership in the defined benefit program of the Florida~~
2880 ~~Retirement System. The election must be made in writing or by~~
2881 ~~electronic means and must be filed with the third-party~~
2882 ~~administrator by August 31, 2002, or, in the case of an active~~
2883 ~~employee who is on a leave of absence on April 1, 2002, by the~~
2884 ~~last business day of the 5th month following the month the leave~~
2885 ~~of absence concludes. This election is irrevocable, except as~~
2886 ~~provided in paragraph (e). Upon making such election, the~~
2887 ~~employee shall be enrolled as a participant of the Public~~
2888 ~~Employee Optional Retirement Program, the employee's membership~~
2889 ~~in the Florida Retirement System shall be governed by the~~
2890 ~~provisions of this part, and the employee's membership in the~~
2891 ~~defined benefit program of the Florida Retirement System shall~~
2892 ~~terminate. The employee's enrollment in the Public Employee~~
2893 ~~Optional Retirement Program shall be effective the first day of~~
2894 ~~the month for which a full month's employer contribution is made~~
2895 ~~to the optional program.~~

2896 b. ~~Any such employee who fails to elect to participate in~~
2897 ~~the Public Employee Optional Retirement Program within the~~
2898 ~~prescribed time period is deemed to have elected to retain~~
2899 ~~membership in the defined benefit program of the Florida~~
2900 ~~Retirement System, and the employee's option to elect to~~

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2901 ~~participate in the optional program is forfeited.~~

2902 ~~2. With respect to employees who become eligible to~~
2903 ~~participate in the Public Employee Optional Retirement Program~~
2904 ~~by reason of employment in a regularly established position with~~
2905 ~~a state employer commencing after April 1, 2002:~~

2906 ~~a. Any such employee shall, by default, be enrolled in the~~
2907 ~~pension plan defined benefit retirement program of the Florida~~
2908 ~~Retirement System at the commencement of employment, and may, by~~
2909 ~~the last business day of the 5th month following the employee's~~
2910 ~~month of hire, elect to enroll ~~participate~~ in the investment~~
2911 ~~plan ~~Public Employee Optional Retirement Program~~. The employee's~~
2912 ~~election must be made in writing or by electronic means and must~~
2913 ~~be filed with the third-party administrator. The election to~~
2914 ~~enroll ~~participate~~ in the investment plan ~~optional program~~ is~~
2915 ~~irrevocable, except as provided in paragraph (e).~~

2916 ~~1.b.~~ If the employee files such election within the
2917 prescribed time period, enrollment in the investment plan is
2918 ~~optional program shall be~~ effective on the first day of
2919 employment. The employer and employee ~~retirement~~ contributions
2920 paid through the month of the employee plan change shall be
2921 transferred to the investment plan ~~optional program~~, and,
2922 effective the first day of the next month, the employer and
2923 employee must ~~shall~~ pay the applicable contributions based on
2924 the employee membership class in the plan ~~optional program~~.

2925 ~~2.c.~~ An Any such employee who fails to elect to enroll
2926 ~~participate~~ in the investment plan ~~Public Employee Optional~~
2927 ~~Retirement Program~~ within the prescribed time period is deemed
2928 to have elected to retain membership in the pension plan ~~defined~~
2929 ~~benefit program of the Florida Retirement System, and the~~

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2930 employee's option to elect to enroll ~~participate~~ in the
2931 investment plan ~~optional program~~ is forfeited.

2932 3. With respect to employees who become eligible to enroll
2933 ~~participate~~ in the investment plan ~~Public Employee Optional~~
2934 ~~Retirement Program~~ pursuant to s. 121.051(2)(c)3. or s.
2935 121.35(3)(i), the any such employee may elect to enroll
2936 ~~participate~~ in the investment plan ~~Public Employee Optional~~
2937 ~~Retirement Program~~ in lieu of retaining his or her participation
2938 in the State Community College System Optional Retirement
2939 Program or the State University System Optional Retirement
2940 Program. The election must be made in writing or by electronic
2941 means and must be filed with the third-party administrator. This
2942 election is irrevocable, except as provided in paragraph (e).
2943 Upon making such election, the employee shall be enrolled in as
2944 ~~a participant of the investment plan Public Employee Optional~~
2945 ~~Retirement Program~~, the employee's membership in the Florida
2946 Retirement System shall be governed by the provisions of this
2947 part, and the employee's participation in the State Community
2948 College System Optional Retirement Program or the State
2949 University System Optional Retirement Program shall terminate.
2950 The employee's enrollment in the investment plan is Public
2951 ~~Employee Optional Retirement Program~~ shall be effective on the
2952 first day of the month for which a full month's of employee
2953 contributions are ~~employer contribution is~~ made to the
2954 investment plan ~~optional program~~.

2955 4. ~~For purposes of this paragraph, "state employer" means~~
2956 ~~any agency, board, branch, commission, community college,~~
2957 ~~department, institution, institution of higher education, or~~
2958 ~~water management district of the state, which participates in~~

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2959 ~~the Florida Retirement System for the benefit of certain~~
2960 ~~employees.~~

2961 ~~(b)1. With respect to an eligible employee who is employed~~
2962 ~~in a regularly established position on September 1, 2002, by a~~
2963 ~~district school board employer:~~

2964 ~~a. Any such employee may elect to participate in the Public~~
2965 ~~Employee Optional Retirement Program in lieu of retaining his or~~
2966 ~~her membership in the defined benefit program of the Florida~~
2967 ~~Retirement System. The election must be made in writing or by~~
2968 ~~electronic means and must be filed with the third-party~~
2969 ~~administrator by November 30, or, in the case of an active~~
2970 ~~employee who is on a leave of absence on July 1, 2002, by the~~
2971 ~~last business day of the 5th month following the month the leave~~
2972 ~~of absence concludes. This election is irrevocable, except as~~
2973 ~~provided in paragraph (e). Upon making such election, the~~
2974 ~~employee shall be enrolled as a participant of the Public~~
2975 ~~Employee Optional Retirement Program, the employee's membership~~
2976 ~~in the Florida Retirement System shall be governed by the~~
2977 ~~provisions of this part, and the employee's membership in the~~
2978 ~~defined benefit program of the Florida Retirement System shall~~
2979 ~~terminate. The employee's enrollment in the Public Employee~~
2980 ~~Optional Retirement Program shall be effective the first day of~~
2981 ~~the month for which a full month's employer contribution is made~~
2982 ~~to the optional program.~~

2983 ~~b. Any such employee who fails to elect to participate in~~
2984 ~~the Public Employee Optional Retirement Program within the~~
2985 ~~prescribed time period is deemed to have elected to retain~~
2986 ~~membership in the defined benefit program of the Florida~~
2987 ~~Retirement System, and the employee's option to elect to~~

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2988 ~~participate in the optional program is forfeited.~~

2989 ~~2. With respect to employees who become eligible to~~
2990 ~~participate in the Public Employee Optional Retirement Program~~
2991 ~~by reason of employment in a regularly established position with~~
2992 ~~a district school board employer commencing after July 1, 2002:~~

2993 ~~a. Any such employee shall, by default, be enrolled in the~~
2994 ~~defined benefit retirement program of the Florida Retirement~~
2995 ~~System at the commencement of employment, and may, by the last~~
2996 ~~business day of the 5th month following the employee's month of~~
2997 ~~hire, elect to participate in the Public Employee Optional~~
2998 ~~Retirement Program. The employee's election must be made in~~
2999 ~~writing or by electronic means and must be filed with the third-~~
3000 ~~party administrator. The election to participate in the optional~~
3001 ~~program is irrevocable, except as provided in paragraph (c).~~

3002 ~~b. If the employee files such election within the~~
3003 ~~prescribed time period, enrollment in the optional program shall~~
3004 ~~be effective on the first day of employment. The employer~~
3005 ~~retirement contributions paid through the month of the employee~~
3006 ~~plan change shall be transferred to the optional program, and,~~
3007 ~~effective the first day of the next month, the employer shall~~
3008 ~~pay the applicable contributions based on the employee~~
3009 ~~membership class in the optional program.~~

3010 ~~e. Any such employee who fails to elect to participate in~~
3011 ~~the Public Employee Optional Retirement Program within the~~
3012 ~~prescribed time period is deemed to have elected to retain~~
3013 ~~membership in the defined benefit program of the Florida~~
3014 ~~Retirement System, and the employee's option to elect to~~
3015 ~~participate in the optional program is forfeited.~~

3016 ~~3. For purposes of this paragraph, "district school board~~

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3017 ~~employer" means any district school board that participates in~~
3018 ~~the Florida Retirement System for the benefit of certain~~
3019 ~~employees, or a charter school or charter technical career~~
3020 ~~center that participates in the Florida Retirement System as~~
3021 ~~provided in s. 121.051(2)(d).~~

3022 ~~(c)1. With respect to an eligible employee who is employed~~
3023 ~~in a regularly established position on December 1, 2002, by a~~
3024 ~~local employer:~~

3025 ~~a. Any such employee may elect to participate in the Public~~
3026 ~~Employee Optional Retirement Program in lieu of retaining his or~~
3027 ~~her membership in the defined benefit program of the Florida~~
3028 ~~Retirement System. The election must be made in writing or by~~
3029 ~~electronic means and must be filed with the third-party~~
3030 ~~administrator by February 28, 2003, or, in the case of an active~~
3031 ~~employee who is on a leave of absence on October 1, 2002, by the~~
3032 ~~last business day of the 5th month following the month the leave~~
3033 ~~of absence concludes. This election is irrevocable, except as~~
3034 ~~provided in paragraph (c). Upon making such election, the~~
3035 ~~employee shall be enrolled as a participant of the Public~~
3036 ~~Employee Optional Retirement Program, the employee's membership~~
3037 ~~in the Florida Retirement System shall be governed by the~~
3038 ~~provisions of this part, and the employee's membership in the~~
3039 ~~defined benefit program of the Florida Retirement System shall~~
3040 ~~terminate. The employee's enrollment in the Public Employee~~
3041 ~~Optional Retirement Program shall be effective the first day of~~
3042 ~~the month for which a full month's employer contribution is made~~
3043 ~~to the optional program.~~

3044 ~~b. Any such employee who fails to elect to participate in~~
3045 ~~the Public Employee Optional Retirement Program within the~~

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3046 ~~prescribed time period is deemed to have elected to retain~~
3047 ~~membership in the defined benefit program of the Florida~~
3048 ~~Retirement System, and the employee's option to elect to~~
3049 ~~participate in the optional program is forfeited.~~

3050 ~~2. With respect to employees who become eligible to~~
3051 ~~participate in the Public Employee Optional Retirement Program~~
3052 ~~by reason of employment in a regularly established position with~~
3053 ~~a local employer commencing after October 1, 2002:~~

3054 ~~a. Any such employee shall, by default, be enrolled in the~~
3055 ~~defined benefit retirement program of the Florida Retirement~~
3056 ~~System at the commencement of employment, and may, by the last~~
3057 ~~business day of the 5th month following the employee's month of~~
3058 ~~hire, elect to participate in the Public Employee Optional~~
3059 ~~Retirement Program. The employee's election must be made in~~
3060 ~~writing or by electronic means and must be filed with the third-~~
3061 ~~party administrator. The election to participate in the optional~~
3062 ~~program is irrevocable, except as provided in paragraph (c).~~

3063 ~~b. If the employee files such election within the~~
3064 ~~prescribed time period, enrollment in the optional program shall~~
3065 ~~be effective on the first day of employment. The employer~~
3066 ~~retirement contributions paid through the month of the employee~~
3067 ~~plan change shall be transferred to the optional program, and,~~
3068 ~~effective the first day of the next month, the employer shall~~
3069 ~~pay the applicable contributions based on the employee~~
3070 ~~membership class in the optional program.~~

3071 ~~c. Any such employee who fails to elect to participate in~~
3072 ~~the Public Employee Optional Retirement Program within the~~
3073 ~~prescribed time period is deemed to have elected to retain~~
3074 ~~membership in the defined benefit program of the Florida~~

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3075 ~~Retirement System, and the employee's option to elect to~~
3076 ~~participate in the optional program is forfeited.~~

3077 ~~3. For purposes of this paragraph, "local employer" means~~
3078 ~~any employer not included in paragraph (a) or paragraph (b).~~

3079 ~~(b)(d)~~ Contributions available for self-direction by a
3080 member participant who has not selected one or more specific
3081 investment products shall be allocated as prescribed by the
3082 state board. The third-party administrator shall notify the
3083 member any such participant at least quarterly that the member
3084 participant should take an affirmative action to make an asset
3085 allocation among the investment plan optional program products.

3086 (c) On or after July 1, 2011, a member of the pension plan
3087 who obtains a refund of employee contributions retains his or
3088 her prior plan choice upon return to employment in a regularly
3089 established position with a participating employer.

3090 (d) A member of the investment plan who takes a
3091 distribution of any contributions from his investment plan
3092 account is considered a retiree. Upon reemployment in a
3093 regularly established position with a participating employer,
3094 the member returns as a new hire and, if applicable, may
3095 participate in the Florida Retirement System.

3096 (e) After the period during which an eligible employee had
3097 the choice to elect the pension plan defined benefit program or
3098 the investment plan optional retirement program, or the month
3099 following the receipt of the eligible employee's plan election,
3100 if sooner, the employee shall have one opportunity, at the
3101 employee's discretion, to choose to move from the pension plan
3102 defined benefit program to the investment plan optional
3103 retirement program or from the investment plan optional

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3104 ~~retirement program~~ to the pension plan ~~defined benefit program~~.
3105 Eligible employees may elect to move between Florida Retirement
3106 System programs only if they are earning service credit in an
3107 employer-employee relationship consistent with s.
3108 121.021(17)(b), excluding leaves of absence without pay.
3109 Effective July 1, 2005, such elections are effective on the
3110 first day of the month following the receipt of the election by
3111 the third-party administrator and are not subject to the
3112 requirements regarding an employer-employee relationship or
3113 receipt of contributions for the eligible employee in the
3114 effective month, except when the election is received by the
3115 third-party administrator. This paragraph is contingent upon
3116 receiving approval from the Internal Revenue Service to include
3117 ~~for including~~ the choice described herein within the programs
3118 offered by the Florida Retirement System.

3119 1. If the employee chooses to move to the investment plan
3120 ~~optional retirement program~~, the applicable provisions of
3121 subsection (3) ~~this section shall~~ govern the transfer.

3122 2. If the employee chooses to move to the pension plan
3123 ~~defined benefit program~~, the employee must transfer from his or
3124 her investment plan ~~optional retirement program~~ account, and
3125 from other employee moneys as necessary, a sum representing the
3126 present value of that employee's accumulated benefit obligation
3127 immediately following the time of such movement, determined
3128 assuming that attained service equals the sum of service in the
3129 pension plan ~~defined benefit program~~ and service in the
3130 investment plan ~~optional retirement program~~. Benefit
3131 commencement occurs on the first date the employee is eligible
3132 for unreduced benefits, using the discount rate and other

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3133 relevant actuarial assumptions that were used to value the
3134 pension ~~defined benefit~~ plan liabilities in the most recent
3135 actuarial valuation. For any employee who, at the time of the
3136 second election, already maintains an accrued benefit amount in
3137 the pension plan ~~defined benefit program~~, the then-present value
3138 of the accrued benefit shall be deemed part of the required
3139 transfer amount. The division shall ensure that the transfer sum
3140 is prepared using a formula and methodology certified by an
3141 enrolled actuary. A refund of any employee contributions or
3142 additional member payments made which exceed the employee
3143 contributions that would have accrued had the member remained in
3144 the pension plan and not transferred to the investment plan is
3145 not permitted.

3146 3. Notwithstanding subparagraph 2., an employee who chooses
3147 to move to the pension plan ~~defined benefit program~~ and who
3148 ~~became eligible to participate in the optional retirement~~
3149 ~~program by reason of employment in a regularly established~~
3150 ~~position with a state employer after June 1, 2002; a district~~
3151 ~~school board employer after September 1, 2002; or a local~~
3152 ~~employer after December 1, 2002,~~ must transfer from his or her
3153 investment plan ~~optional retirement program~~ account, and from
3154 other employee moneys as necessary, a sum representing the
3155 employee's actuarial accrued liability. A refund of any employee
3156 contributions or additional participant payments made which
3157 exceed the employee contributions that would have accrued had
3158 the member remained in the pension plan and not transferred to
3159 the investment plan is not permitted.

3160 4. An employee's ability to transfer from the pension plan
3161 ~~defined benefit program~~ to the investment plan ~~optional~~

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3162 ~~retirement program~~ pursuant to paragraphs (a) and (b) ~~(a)-(d)~~,
3163 and the ability of a current employee to have an option to later
3164 transfer back into the pension plan ~~defined benefit program~~
3165 under subparagraph 2., shall be deemed a significant system
3166 amendment. Pursuant to s. 121.031(4), any resulting unfunded
3167 liability arising from actual original transfers from the
3168 pension plan ~~defined benefit program~~ to the investment plan
3169 ~~optional program~~ must be amortized within 30 plan years as a
3170 separate unfunded actuarial base independent of the reserve
3171 stabilization mechanism defined in s. 121.031(3)(f). For the
3172 first 25 years, a direct amortization payment may not be
3173 calculated for this base. During this 25-year period, the
3174 separate base shall be used to offset the impact of employees
3175 exercising their second program election under this paragraph.
3176 It is the intent of the Legislature that the actuarial funded
3177 status of the pension plan ~~defined benefit program~~ not be
3178 affected by such second program elections in any significant
3179 manner, after due recognition of the separate unfunded actuarial
3180 base. Following the initial 25-year period, any remaining
3181 balance of the original separate base shall be amortized over
3182 the remaining 5 years of the required 30-year amortization
3183 period.

3184 5. If the employee chooses to transfer from the investment
3185 plan ~~optional retirement program~~ to the pension plan ~~defined~~
3186 ~~benefit program~~ and retains an excess account balance in the
3187 investment plan ~~optional program~~ after satisfying the buy-in
3188 requirements under this paragraph, the excess may not be
3189 distributed until the member retires from the pension plan
3190 ~~defined benefit program~~. The excess account balance may be

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3191 rolled over to the pension plan ~~defined benefit program~~ and used
3192 to purchase service credit or upgrade creditable service in that
3193 program.

3194 (f) On or after July 1, 2011, a member of the pension plan
3195 who obtains a refund of employee contributions retains his or
3196 her prior plan choice upon return to employment in a regularly
3197 established position with a participating employer.

3198 (g) A member of the investment plan who takes a
3199 distribution of any contributions from his or her investment
3200 plan account is considered a retiree. Upon reemployment in a
3201 regularly established position with a participating employer,
3202 the member returns as a new hire and, if applicable, may
3203 participate in the Florida Retirement System.

3204 (5) CONTRIBUTIONS.—

3205 (a) The ~~Each~~ employer and employee shall make the required
3206 contributions to the investment plan based on a percentage of
3207 the employee's gross monthly compensation ~~contribute on behalf~~
3208 of each participant in the Public Employee optional retirement
3209 Program, as provided in part III of this chapter.

3210 (b) Employee contributions shall be paid on a pretax basis,
3211 as provided in s. 121.71(2).

3212 (c) The state board, acting as plan fiduciary, shall ensure
3213 that all plan assets are held in a trust, pursuant to s. 401 of
3214 the Internal Revenue Code. The fiduciary shall ensure that said
3215 contributions are allocated as follows:

3216 1. The employer and employee portion earmarked for member
3217 participant accounts shall be used to purchase interests in the
3218 appropriate investment vehicles ~~for the accounts of each~~
3219 ~~participant~~ as specified by the member participant, or in

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3220 accordance with paragraph (4) (b) ~~(4) (d)~~.

3221 2. The employer portion earmarked for administrative and
3222 educational expenses shall be transferred to the state board.

3223 3. The employer portion earmarked for disability benefits
3224 shall be transferred to the department.

3225 ~~(d) (b)~~ The third-party administrator is ~~Employers are~~
3226 responsible for monitoring and notifying employers of the
3227 ~~participants regarding~~ maximum contribution levels allowed for
3228 members permitted under the Internal Revenue Code. If a member
3229 ~~participant~~ contributes to any other tax-deferred plan, the
3230 member he or she is responsible for ensuring that total
3231 contributions made to the investment plan ~~optional program~~ and
3232 to any other such plan do not exceed federally permitted
3233 maximums.

3234 ~~(e) (c)~~ The investment plan ~~Public Employee Optional~~
3235 ~~Retirement Program~~ may accept for deposit into member
3236 ~~participant~~ accounts contributions in the form of rollovers or
3237 direct trustee-to-trustee transfers by or on behalf of members
3238 ~~participants~~, reasonably determined by the state board to be
3239 eligible for rollover or transfer to the investment plan
3240 ~~optional retirement program~~ pursuant to the Internal Revenue
3241 Code, if such contributions are made in accordance with rules ~~as~~
3242 ~~may be~~ adopted by the board. Such contributions must ~~shall~~ be
3243 accounted for in accordance with ~~any~~ applicable Internal Revenue
3244 Code requirements and rules of the state board.

3245 (6) VESTING REQUIREMENTS.—

3246 (a) A member is fully and immediately vested in all
3247 employee contributions paid to the investment plan as provided
3248 in s. 121.72(2), plus interest and earnings thereon and less

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3249 investment fees and administrative charges.

3250 (b)~~(a)~~1. With respect to employer contributions paid on
3251 behalf of a member of the investment plan
3252 ~~optional retirement program~~, plus interest and earnings thereon
3253 and less investment fees and administrative charges, a member
3254 who voluntarily elected to enroll in the investment plan before
3255 July 1, 2011, or an eligible employee initially enrolled in the
3256 Florida Retirement System before July 1, 2011, who has the
3257 option to voluntarily elect to enroll in the investment plan,
3258 ~~participant~~ is vested after completing 1 work year with an
3259 employer, including any service while the employee participant
3260 was a member of the pension plan ~~defined benefit program~~ or an
3261 optional retirement program authorized under s. 121.051(2)(c),
3262 ~~or~~ s. 121.055(6), or s. 121.35.

3263 2. With respect to employer contributions paid on behalf of
3264 the member of the investment plan, plus interest and earnings
3265 thereon and less investment fees and administrative charges, an
3266 employee initially enrolled in the Florida Retirement System on
3267 or after July 1, 2011, is vested according to the following
3268 schedule:

- 3269 a. Upon completion of 1 year of service.....20%
- 3270 b. Upon completion of 2 years of service.....40%
- 3271 c. Upon completion of 3 years of service.....60%
- 3272 d. Upon completion of 4 years of service.....80%
- 3273 e. Upon completion of 5 or more years of service.....100%

3274
3275 Years of service includes any service completed while the
3276 employee was a member of the pension plan or an optional
3277 retirement program authorized under s. 121.051(2)(c), s.

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3278 121.055(6), or s. 121.35.

3279 ~~3.2.~~ If the member ~~participant~~ terminates employment before
3280 satisfying the vesting requirements, the nonvested accumulation
3281 must be transferred from the member's ~~participant's~~ accounts to
3282 the state board for deposit and investment by the state board in
3283 the suspense account created within the Florida Public Employee
3284 ~~Optional Retirement System Investment Plan Program~~ Trust Fund.
3285 If the terminated member ~~participant~~ is reemployed as an
3286 eligible employee within 5 years, the state board shall transfer
3287 to the member's ~~participant's~~ account any amount previously
3288 transferred from the member's ~~participant's~~ accounts to the
3289 suspense account, plus actual earnings on such amount while in
3290 the suspense account.

3291 ~~(c)(b)~~1. With respect to amounts contributed by an employer
3292 and transferred from the pension plan defined benefit program to
3293 the investment plan program, plus interest and earnings, and
3294 less investment fees and administrative charges, a member
3295 ~~participant~~ shall be vested in the amount transferred upon
3296 meeting the service requirements for the member's ~~participant's~~
3297 membership class as set forth in s. 121.021(29). The third-party
3298 administrator shall account for such amounts for each member
3299 ~~participant~~. The division shall notify the member ~~participant~~
3300 and the third-party administrator when the member ~~participant~~
3301 has satisfied the vesting period for Florida Retirement System
3302 purposes.

3303 2. If the member ~~participant~~ terminates employment before
3304 satisfying the vesting requirements, the nonvested employer
3305 accumulation must be transferred from the member's ~~participant's~~
3306 accounts to the state board for deposit and investment by the

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3307 state board in the suspense account created within the Florida
 3308 ~~Public Employee Optional Retirement System Investment Plan~~
 3309 ~~Program~~ Trust Fund. If the terminated member participant is
 3310 reemployed as an eligible employee within 5 years, the state
 3311 board shall transfer to the member's participant's account any
 3312 amount previously transferred from the member's participant's
 3313 accounts to the suspense account, plus the actual earnings on
 3314 such amount while in the suspense account.

3315 (d) ~~(e)~~ Any nonvested accumulations transferred from a
 3316 member's participant's account to the state board's suspense
 3317 account, including any accompanying service credit, shall be
 3318 forfeited by the member participant if the member participant is
 3319 not reemployed as an eligible employee within 5 years after
 3320 termination.

3321 (e) If the member elects to receive any of his or her
 3322 vested employer or employee contributions upon termination of
 3323 employment as defined in s. 121.021, except for a mandatory
 3324 distribution of a de minimis account authorized by the state
 3325 board or a minimum required distribution provided by s.
 3326 401(a) (9) of the Internal Revenue Code, the employee shall
 3327 forfeit all nonvested employer contributions and accompanying
 3328 service credit paid on behalf of the employee to the investment
 3329 plan.

3330 (7) BENEFITS.—Under the investment plan the normal
 3331 retirement date is the date on which a member attains age 62 or
 3332 completes 5 years of service, whichever occurs later. Plan
 3333 benefits must ~~Public Employee Optional Retirement program:~~

3334 (a) ~~Benefits shall~~ Be provided in accordance with s. 401(a)
 3335 of the Internal Revenue Code.

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3336 (b) ~~Benefits shall~~ Accrue in individual accounts that are
3337 member-directed ~~participant-directed~~, portable, and funded by
3338 employer and employee contributions and earnings thereon.

3339 (c) ~~Benefits shall~~ Be payable in accordance with ~~the~~
3340 ~~provisions of~~ s. 121.591.

3341 (8) ADMINISTRATION OF PLAN PROGRAM.—

3342 ~~(a)~~ The investment plan ~~optional retirement program~~ shall
3343 be administered by the state board and affected employers. The
3344 state board may require oaths, by affidavit or otherwise, and
3345 acknowledgments from persons in connection with the
3346 administration of its statutory duties and responsibilities for
3347 the plan ~~this program~~. An oath, by affidavit or otherwise, may
3348 not be required of an employee ~~participant~~ at the time of
3349 enrollment. For members enrolled before July 1, 2011,
3350 acknowledgment of an employee's election to enroll ~~participate~~
3351 in the plan ~~may program~~ shall be no greater than necessary to
3352 confirm the employee's election. The state board shall adopt
3353 rules to carry out its statutory duties with respect to
3354 administering the investment plan ~~optional retirement program~~,
3355 including ~~establishing~~ the roles and responsibilities of
3356 affected state, local government, and education-related
3357 employers, the state board, the department, and third-party
3358 contractors. The department shall adopt rules necessary to
3359 administer the investment plan ~~optional program~~ in coordination
3360 with the pension plan ~~defined benefit program~~ and the disability
3361 benefits available under the investment plan ~~optional program~~.

3362 ~~(a)(b)~~1. The state board shall select and contract with a
3363 ~~one~~ third-party administrator to provide administrative services
3364 if those services cannot be competitively and contractually

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3365 provided by the division ~~of Retirement within the Department of~~
3366 ~~Management Services~~. With the approval of the state board, the
3367 third-party administrator may subcontract ~~with other~~
3368 ~~organizations or individuals~~ to provide components of the
3369 administrative services. As a cost of administration, the state
3370 board may compensate ~~any~~ such contractor for its services, in
3371 accordance with the terms of the contract, as is deemed
3372 necessary or proper by the board. The third-party administrator
3373 may not be an approved provider or be affiliated with an
3374 approved provider.

3375 2. These administrative services may include, but are not
3376 limited to, enrollment of eligible employees, collection of
3377 employer and employee contributions, disbursement of ~~such~~
3378 contributions to approved providers in accordance with the
3379 allocation directions of members ~~participants~~; services relating
3380 to consolidated billing; individual and collective recordkeeping
3381 and accounting; asset purchase, control, and safekeeping; and
3382 direct disbursement of funds to and from the third-party
3383 administrator, the division, the state board, employers, plan
3384 members ~~participants~~, approved providers, and beneficiaries.
3385 This section does not prevent or prohibit a bundled provider
3386 from providing any administrative or customer service, including
3387 accounting and administration of individual member ~~participant~~
3388 benefits and contributions; individual member ~~participant~~
3389 recordkeeping; asset purchase, control, and safekeeping; direct
3390 execution of the member's ~~participant's~~ instructions as to asset
3391 and contribution allocation; calculation of daily net asset
3392 values; direct access to member ~~participant~~ account information;
3393 or periodic reporting to members ~~participants~~, at least

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3394 quarterly, on account balances and transactions, if these
3395 services are authorized by the state board as part of the
3396 contract.

3397 ~~(b)1.3.~~ The state board shall select and contract with one
3398 or more organizations to provide educational services. With
3399 approval of the state board, the organizations may subcontract
3400 ~~with other organizations or individuals~~ to provide components of
3401 the educational services. As a cost of administration, the state
3402 board may compensate any such contractor for its services in
3403 accordance with the terms of the contract, as is deemed
3404 necessary or proper by the board. The education organization may
3405 not be an approved provider or be affiliated with an approved
3406 provider.

3407 ~~2.4.~~ Educational services shall be designed by the state
3408 board and department to assist employers, eligible employees,
3409 members participants, and beneficiaries in order to maintain
3410 compliance with United States Department of Labor regulations
3411 under s. 404(c) of the Employee Retirement Income Security Act
3412 of 1974, ~~and~~ to assist employees in understanding their ~~choice~~
3413 ~~of defined benefit or defined contribution retirement program,~~
3414 and, if applicable, the choice between the pension plan and the
3415 investment plan alternatives. Educational services include, but
3416 are not limited to, disseminating educational materials;
3417 providing retirement planning education; explaining the pension
3418 ~~differences between the defined benefit retirement plan and the~~
3419 investment defined contribution retirement plan; and offering
3420 financial planning guidance on matters such as investment
3421 diversification, investment risks, investment costs, and asset
3422 allocation. An approved provider may also provide educational

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3423 information, including retirement planning and investment
3424 allocation information concerning its products and services.

3425 (c)1. In evaluating and selecting a third-party
3426 administrator, the state board shall establish criteria for
3427 evaluating ~~under which it shall consider~~ the relative
3428 capabilities and qualifications of each proposed administrator.
3429 In developing such criteria, the state board shall consider:

3430 a. The administrator's demonstrated experience in providing
3431 administrative services to public or private sector retirement
3432 systems.

3433 b. The administrator's demonstrated experience in providing
3434 daily valued recordkeeping for investment ~~to defined~~
3435 ~~contribution~~ plans.

3436 c. The administrator's ability and willingness to
3437 coordinate its activities with ~~the Florida Retirement System~~
3438 employers, the state board, and the division, and to supply to
3439 such employers, the board, and the division the information and
3440 data they require, including, but not limited to, monthly
3441 management reports, quarterly member ~~participant~~ reports, and ad
3442 hoc reports requested by the department or state board.

3443 d. The cost-effectiveness and levels of the administrative
3444 services provided.

3445 e. The administrator's ability to interact with the members
3446 ~~participants~~, the employers, the state board, the division, and
3447 the providers; the means by which members ~~participants~~ may
3448 access account information, direct investment of contributions,
3449 make changes to their accounts, transfer moneys between
3450 available investment vehicles, and transfer moneys between
3451 investment products; and any fees that apply to such activities.

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3452 f. Any other factor deemed necessary by the ~~Trustees of the~~
3453 state board ~~of Administration~~.

3454 2. In evaluating and selecting an educational provider, the
3455 state board shall establish criteria under which it shall
3456 consider the relative capabilities and qualifications of each
3457 proposed educational provider. In developing such criteria, the
3458 board shall consider:

3459 a. Demonstrated experience in providing educational
3460 services to public or private sector retirement systems.

3461 b. Ability and willingness to coordinate its activities
3462 with the ~~Florida Retirement System~~ employers, the state board,
3463 and the division, and to supply to such employers, the board,
3464 and the division the information and data they require,
3465 including, but not limited to, reports on educational contacts.

3466 c. The cost-effectiveness and levels of the educational
3467 services provided.

3468 d. Ability to provide educational services via different
3469 media, including, but not limited to, the Internet, personal
3470 contact, seminars, brochures, and newsletters.

3471 e. Any other factor deemed necessary by the ~~Trustees of the~~
3472 state board ~~of Administration~~.

3473 3. The establishment of the criteria shall be solely within
3474 the discretion of the state board.

3475 (d) The state board shall develop the form and content of
3476 any contracts to be offered under the investment plan ~~Public~~
3477 ~~Employee Optional Retirement Program~~. In developing the ~~its~~
3478 contracts, the state board shall ~~must~~ consider:

3479 1. The nature and extent of the rights and benefits to be
3480 afforded in relation to the ~~required~~ contributions required

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3481 under the plan ~~program~~.

3482 2. The suitability of the rights and benefits provided ~~to~~
3483 ~~be afforded~~ and the interests of employers in the recruitment
3484 and retention of eligible employees.

3485 (e)1. The state board may contract ~~with any consultant~~ for
3486 professional services, including legal, consulting, accounting,
3487 and actuarial services, deemed necessary to implement and
3488 administer the investment plan ~~optional program by the Trustees~~
3489 ~~of the state board of Administration~~. The state board may enter
3490 into a contract with one or more vendors to provide low-cost
3491 investment advice to members ~~participants~~, supplemental to
3492 education provided by the third-party administrator. All fees
3493 under ~~any~~ such contract shall be paid by those members
3494 ~~participants~~ who choose to use the services of the vendor.

3495 2. The department may contract ~~with consultants~~ for
3496 professional services, including legal, consulting, accounting,
3497 and actuarial services, deemed necessary to implement and
3498 administer the investment plan ~~optional program~~ in coordination
3499 with the pension plan ~~defined benefit program of the Florida~~
3500 ~~Retirement System~~. The department, in coordination with the
3501 state board, may enter into a contract with the third-party
3502 administrator in order to coordinate services common to the
3503 various programs within the Florida Retirement System.

3504 (f) The third-party administrator may ~~shall~~ not receive
3505 direct or indirect compensation from an approved provider,
3506 except as specifically provided for in the contract with the
3507 state board.

3508 (g) The state board shall receive and resolve member
3509 ~~participant~~ complaints against the investment plan ~~program~~, the

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3510 third-party administrator, or any plan ~~program~~ vendor or
3511 provider; shall resolve any conflict between the third-party
3512 administrator and an approved provider if such conflict
3513 threatens the implementation or administration of the plan
3514 ~~program~~ or the quality of services to employees; and may resolve
3515 any other conflicts. The third-party administrator shall retain
3516 all member ~~participant~~ records for at least 5 years for use in
3517 resolving any member ~~participant~~ conflicts. The state board, the
3518 third-party administrator, or a provider is not required to
3519 produce documentation or an audio recording to justify action
3520 taken with regard to a member ~~participant~~ if the action occurred
3521 5 or more years before the complaint is submitted to the state
3522 board. It is presumed that all action taken 5 or more years
3523 before the complaint is submitted was taken at the request of
3524 the member ~~participant~~ and with the member's ~~participant's~~ full
3525 knowledge and consent. To overcome this presumption, the member
3526 ~~participant~~ must present documentary evidence or an audio
3527 recording demonstrating otherwise.

3528 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

3529 (a) The state board shall develop policy and procedures for
3530 selecting, evaluating, and monitoring the performance of
3531 approved providers and investment products ~~to which employees~~
3532 ~~may direct retirement contributions~~ under the investment plan
3533 ~~program~~. In accordance with such policy and procedures, the
3534 state board shall designate and contract for a number of
3535 investment products as determined by the state board. The state
3536 board shall also select one or more bundled providers, each of
3537 which ~~whom~~ may offer multiple investment options and related
3538 services, if ~~when~~ such ~~an~~ approach is determined by the state

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3539 board to provide ~~afford~~ value to the members ~~participants~~
3540 otherwise not available through individual investment products.
3541 Each approved bundled provider may offer investment options that
3542 provide members ~~participants~~ with the opportunity to invest in
3543 each of the following asset classes, to be composed of
3544 individual options that represent ~~either~~ a single asset class or
3545 a combination thereof: money markets, United States fixed
3546 income, United States equities, and foreign stock. The state
3547 board shall review and manage all educational materials,
3548 contract terms, fee schedules, and other aspects of ~~the~~ approved
3549 provider relationships to ensure that no provider is unduly
3550 favored or penalized by virtue of its status within the
3551 investment plan.

3552 (b) The state board shall consider investment options or
3553 products it considers appropriate to give members ~~participants~~
3554 the opportunity to accumulate retirement benefits, subject to
3555 the following:

3556 1. The investment plan ~~Public Employee Optional Retirement~~
3557 ~~Program~~ must offer a diversified mix of low-cost investment
3558 products that span the risk-return spectrum and may include a
3559 guaranteed account as well as investment products, such as
3560 individually allocated guaranteed and variable annuities, which
3561 meet the requirements of this subsection and combine the ability
3562 to accumulate investment returns with the option of receiving
3563 lifetime income consistent with the long-term retirement
3564 security of a pension plan and similar to the lifetime-income
3565 benefit provided by the Florida Retirement System.

3566 2. Investment options or products offered by ~~the group of~~
3567 approved providers may include mutual funds, group annuity

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3568 contracts, individual retirement annuities, interests in trusts,
3569 collective trusts, separate accounts, and other such financial
3570 instruments, and ~~may include~~ products that give members
3571 ~~participants~~ the option of committing their contributions for an
3572 extended time period in an effort to obtain returns higher than
3573 those that could be obtained from investment products offering
3574 full liquidity.

3575 3. The state board may ~~shall~~ not contract with a ~~any~~
3576 provider that imposes a front-end, back-end, contingent, or
3577 deferred sales charge, or any other fee that limits or restricts
3578 the ability of members ~~participants~~ to select any investment
3579 product available in the investment plan ~~optional program~~. This
3580 prohibition does not apply to fees or charges that are imposed
3581 on withdrawals from products that give members ~~participants~~ the
3582 option of committing ~~their~~ contributions for an extended time
3583 period in an effort to obtain returns higher than those that
3584 could be obtained from investment products offering full
3585 liquidity, provided that the product ~~in question~~, net of all
3586 fees and charges, produces material benefits relative to other
3587 comparable products in the plan ~~program~~ offering full liquidity.

3588 4. Fees or charges for insurance features, such as
3589 mortality and expense-risk charges, must be reasonable relative
3590 to the benefits provided.

3591 (c) In evaluating and selecting approved providers and
3592 products, the state board shall establish criteria for
3593 evaluating ~~under which it shall consider~~ the relative
3594 capabilities and qualifications of each proposed provider
3595 company and product. In developing such criteria, the state
3596 board shall consider the following to the extent such factors

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3597 may be applied in connection with investment products, services,
3598 or providers:

3599 1. Experience in the United States providing retirement
3600 products and related financial services under investment ~~defined~~
3601 ~~contribution~~ retirement plans.

3602 2. Financial strength and stability as ~~which shall be~~
3603 evidenced by the highest ratings assigned by nationally
3604 recognized rating services when comparing proposed providers
3605 that are so rated.

3606 3. Intrastate and interstate portability of the product
3607 offered, including early withdrawal options.

3608 4. Compliance with the Internal Revenue Code.

3609 5. The cost-effectiveness of the product provided and the
3610 levels of service supporting the product relative to its
3611 benefits and its characteristics, including, ~~without limitation,~~
3612 the level of risk borne by the provider.

3613 6. The provider company's ability and willingness to
3614 coordinate its activities with Florida Retirement System
3615 employers, the department, and the state board, and to supply ~~to~~
3616 the ~~such~~ employers, the department, and the state board with the
3617 information and data they require.

3618 7. The methods available to members ~~participants~~ to
3619 interact with the provider company; the means by which members
3620 ~~participants~~ may access account information, direct investment
3621 of contributions, make changes to their accounts, transfer
3622 moneys between available investment vehicles, and transfer
3623 moneys between provider companies; and any fees that apply to
3624 such activities.

3625 8. The provider company's policies with respect to the

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3626 transfer of individual account balances, contributions, and
3627 earnings thereon, both internally among investment products
3628 offered by the provider company and externally between approved
3629 providers, as well as any fees, charges, reductions, or
3630 penalties that may be applied.

3631 9. An evaluation of specific investment products, taking
3632 into account each product's experience in meeting its investment
3633 return objectives net of all related fees, expenses, and
3634 charges, including, but not limited to, investment management
3635 fees, loads, distribution and marketing fees, custody fees,
3636 recordkeeping fees, education fees, annuity expenses, and
3637 consulting fees.

3638 10. Organizational factors, including, but not limited to,
3639 financial solvency, organizational depth, and experience in
3640 providing institutional and retail investment services.

3641 (d) ~~By March 1, 2010,~~ The state board shall identify and
3642 offer at least one terror-free investment product that allocates
3643 its funds among securities not subject to divestiture as
3644 provided in s. 215.473 if the investment product is deemed by
3645 the state board to be consistent with prudent investor
3646 standards. No person may bring a civil, criminal, or
3647 administrative action against an approved provider; the state
3648 board; or any employee, officer, director, or trustee of such
3649 provider based upon the divestiture of any security or the
3650 offering of a terror-free investment product as specified in
3651 this paragraph.

3652 (e) As a condition of offering an ~~any~~ investment option or
3653 product in the investment plan ~~optional retirement program~~, the
3654 approved provider must agree to make the investment product or

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3655 service available under the most beneficial terms offered to any
3656 other customer, subject to approval by the ~~Trustees of the state~~
3657 ~~board of Administration.~~

3658 (f) The state board shall regularly review the performance
3659 of each approved provider and product and related organizational
3660 factors to ensure continued compliance with established
3661 selection criteria and with board policy and procedures.
3662 Providers and products may be terminated subject to contract
3663 provisions. The state board shall adopt procedures to transfer
3664 account balances from terminated products or providers to other
3665 products or providers in the investment plan ~~optional program.~~

3666 (g)1. An approved provider shall comply with all applicable
3667 federal and state securities and insurance laws and regulations
3668 ~~applicable to the provider~~, as well as with the applicable rules
3669 and guidelines of the National Association of Securities Dealers
3670 which govern the ethical marketing of investment products. In
3671 furtherance of this mandate, an approved provider must agree in
3672 its contract with the state board to establish and maintain a
3673 compliance education and monitoring system to supervise the
3674 activities of all personnel who directly communicate with
3675 individual members ~~participants~~ and recommend investment
3676 products, which system is consistent with rules of the National
3677 Association of Securities Dealers.

3678 2. Approved provider personnel who directly communicate
3679 with individual members ~~participants~~ and who recommend
3680 investment products shall make an independent and unbiased
3681 determination as to whether an investment product is suitable
3682 for a particular member ~~participant~~.

3683 3. The state board shall develop procedures to receive and

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3684 resolve member ~~participant~~ complaints against a provider or
3685 approved provider personnel, and, if ~~when~~ appropriate, refer
3686 such complaints to the appropriate agency.

3687 4. Approved providers may not sell or in any way distribute
3688 any customer list or member ~~participant~~ identification
3689 information generated through their offering of products or
3690 services through the investment plan ~~optional retirement~~
3691 ~~program~~.

3692 (10) EDUCATION COMPONENT.—

3693 (a) The state board, in coordination with the department,
3694 shall provide ~~for~~ an education component for eligible employees
3695 ~~system members~~ in a manner consistent with ~~the provisions of~~
3696 this section. The education component must be available to
3697 eligible employees at least 90 days before ~~prior to~~ the
3698 beginning date of the election period for the employees of the
3699 respective types of employers.

3700 (b) The education component must provide eligible employees
3701 ~~system members~~ with impartial and balanced information about
3702 plan choices. The education component must involve multimedia
3703 formats. Plan Program comparisons must, to the greatest extent
3704 possible, be based upon the retirement income that different
3705 retirement programs may provide to the member ~~participant~~. The
3706 state board shall monitor the performance of the contract for
3707 the education component to ensure that the program is conducted
3708 in accordance with the contract, applicable law, and the rules
3709 of the board.

3710 (c) The state board, in coordination with the department,
3711 shall provide for an initial and ongoing transfer education
3712 component to provide system members with information necessary

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3713 to make informed plan choice decisions. The transfer education
3714 component must include, but is not limited to, information on:

3715 1. The amount of money available to a member to transfer to
3716 the investment plan ~~defined contribution program~~.

3717 2. The features of and differences between the pension plan
3718 ~~defined benefit program~~ and the investment plan ~~defined~~
3719 ~~contribution program~~, both generally and specifically, as those
3720 differences may affect the member.

3721 3. The expected benefit available if the member were to
3722 retire under each of the retirement programs, based on
3723 appropriate alternative sets of assumptions.

3724 4. The rate of return from investments in the investment
3725 plan ~~defined contribution program~~ and the period of time over
3726 which such rate of return must be achieved to equal or exceed
3727 the expected monthly benefit payable to the member under the
3728 pension plan ~~defined benefit program~~.

3729 5. The historical rates of return for the investment
3730 alternatives available in the investment plan ~~defined~~
3731 ~~contribution programs~~.

3732 6. The benefits and historical rates of return on
3733 investments available in a typical deferred compensation plan or
3734 a typical plan under s. 403(b) of the Internal Revenue Code for
3735 which the employee may be eligible.

3736 7. The program choices available to employees of the State
3737 University System and the comparative benefits of each available
3738 program, if applicable.

3739 8. Payout options available in each of the retirement
3740 programs.

3741 (d) An ongoing education and communication component must

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3742 provide eligible employees ~~system members~~ with information
3743 necessary to make informed decisions about choices within their
3744 retirement program ~~of membership~~ and in preparation for
3745 retirement. The component must include, but is not limited to,
3746 information concerning:

3747 1. Rights and conditions of membership.

3748 2. Benefit features within the program, options, and
3749 effects of certain decisions.

3750 3. Coordination of contributions and benefits with a
3751 deferred compensation plan under s. 457 or a plan under s.
3752 403(b) of the Internal Revenue Code.

3753 4. Significant program changes.

3754 5. Contribution rates and program funding status.

3755 6. Planning for retirement.

3756 (e) Descriptive materials must be prepared under the
3757 assumption that the employee is an unsophisticated investor, and
3758 all materials used in the education component must be approved
3759 by the state board before ~~prior to~~ dissemination.

3760 (f) The state board and the department shall also establish
3761 a communication component to provide program information to
3762 participating employers and the employers' personnel and payroll
3763 officers and to explain their respective responsibilities in
3764 conjunction with the retirement programs.

3765 (g) Funding for education of new employees may reflect
3766 administrative costs to the investment plan ~~optional program~~ and
3767 the pension plan ~~defined benefit program~~.

3768 (h) Pursuant to paragraph (8)(a), all Florida Retirement
3769 System employers have an obligation to regularly communicate the
3770 existence of the two Florida Retirement System plans and the

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3771 plan choice in the natural course of administering their
3772 personnel functions, using the educational materials supplied by
3773 the state board and the department ~~of Management Services~~.

3774 (11) MEMBER PARTICIPANT INFORMATION REQUIREMENTS.—The state
3775 board shall ensure that each member participant is provided a
3776 quarterly statement that accounts for employer and employee ~~the~~
3777 contributions made on behalf of the member ~~such participant~~; the
3778 interest and investment earnings thereon; and any fees,
3779 penalties, or other deductions that apply ~~thereto~~. At a minimum,
3780 such statements must:

3781 (a) Indicate the member's ~~participant's~~ investment options.

3782 (b) State the market value of the account at the close of
3783 the current quarter and previous quarter.

3784 (c) Show account gains and losses ~~for the period~~ and
3785 changes in account accumulation unit values for the quarter
3786 ~~period~~.

3787 (d) Itemize account contributions for the quarter.

3788 (e) Indicate any account changes due to adjustment of
3789 contribution levels, reallocation of contributions, balance
3790 transfers, or withdrawals.

3791 (f) Set forth any fees, charges, penalties, and deductions
3792 that apply to the account.

3793 (g) Indicate the amount of the account in which the member
3794 ~~participant~~ is fully vested and the amount of the account in
3795 which the member participant is not vested.

3796 (h) Indicate each investment product's performance relative
3797 to an appropriate market benchmark.

3798
3799 The third-party administrator shall provide quarterly and annual

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3800 summary reports to the state board and any other reports
3801 requested by the department or the board. In any solicitation or
3802 offer of coverage under the investment plan ~~an optional~~
3803 ~~retirement program~~, a provider company shall be governed by the
3804 contract readability provisions of s. 627.4145, notwithstanding
3805 s. 627.4145(6)(c). In addition, all descriptive materials must
3806 be prepared under the assumption that the member participant is
3807 an unsophisticated investor. Provider companies must maintain an
3808 internal system of quality assurance, have proven functional
3809 systems that are date-calculation compliant, and be subject to a
3810 due-diligence inquiry that proves their capacity and fitness to
3811 undertake service responsibilities.

3812 (12) ADVISORY COUNCIL TO PROVIDE ADVICE AND ASSISTANCE.—The
3813 Investment Advisory Council, created pursuant to s. 215.444,
3814 shall assist the state board in implementing and administering
3815 the investment plan ~~Public Employee Optional Retirement Program~~.
3816 ~~The Investment Advisory council, created pursuant to s. 215.444,~~
3817 shall review the state board's initial recommendations regarding
3818 the criteria to be used in selecting and evaluating approved
3819 providers and investment products. The council may provide
3820 comments on the recommendations to the board within 45 days
3821 after receiving the initial recommendations. The state board
3822 shall make the final determination as to whether any investment
3823 provider or product, any contractor, or any and all contract
3824 provisions are ~~shall be~~ approved for the investment plan
3825 program.

3826 (13) FEDERAL REQUIREMENTS.—

3827 (a) ~~Provisions of~~ This section shall be construed, and the
3828 investment plan ~~Public Employee Optional Retirement Program~~

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3829 shall be administered, so as to comply with the Internal Revenue
3830 Code, 26 U.S.C., and specifically with plan qualification
3831 requirements imposed on governmental plans under s. 401(a) of
3832 the Internal Revenue Code. The state board may ~~shall have the~~
3833 ~~power and authority to~~ adopt rules reasonably necessary to
3834 establish or maintain the qualified status of the investment
3835 plan ~~Optional Retirement Program~~ under the Internal Revenue Code
3836 and to implement and administer the plan ~~Optional Retirement~~
3837 ~~Program~~ in compliance with the Internal Revenue Code and this
3838 part; ~~provided~~ however, ~~that~~ the board may ~~shall not have the~~
3839 ~~authority to~~ adopt any rule which makes a substantive change to
3840 the investment plan ~~Optional Retirement Program~~ as designed by
3841 this part.

3842 (b) Any section or provision of this chapter which is
3843 susceptible to more than one construction shall ~~must~~ be
3844 interpreted in favor of the construction most likely to satisfy
3845 requirements imposed by s. 401(a) of the Internal Revenue Code.

3846 (c) Employer and employee contributions payable under this
3847 section for any limitation year may not exceed the maximum
3848 amount allowable for qualified defined contribution ~~pension~~
3849 plans under applicable provisions of the Internal Revenue Code.
3850 If an employee who is enrolled ~~who has elected to participate~~ in
3851 the investment plan enrolls ~~Public Employee Optional Retirement~~
3852 ~~Program~~ ~~participates~~ in any other plan that is maintained by the
3853 participating employer, benefits that accrue under the
3854 investment plan ~~are Public Employee Optional Retirement Program~~
3855 ~~shall be~~ considered primary for any aggregate limitation
3856 applicable under s. 415 of the Internal Revenue Code.

3857 (14) INVESTMENT POLICY STATEMENT.—

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3858 (a) Investment products and approved providers selected for
3859 the investment plan ~~Public Employee Optional Retirement Program~~
3860 must shall conform with the Florida Public Employee Optional
3861 Retirement System Program Investment Plan Policy Statement,
3862 herein referred to as the "statement," as developed and approved
3863 by the ~~Trustees of the~~ state board of ~~Administration~~. The
3864 statement must include, among other items, the investment
3865 objectives of the investment plan ~~Public Employee Optional~~
3866 ~~Retirement Program~~, manager selection and monitoring guidelines,
3867 and performance measurement criteria. As required from time to
3868 time, the executive director of the state board may present
3869 recommended changes in the statement to the board for approval.

3870 (b) Before ~~Prior to~~ presenting the statement, or any
3871 recommended changes ~~thereto~~, to the state board, the executive
3872 director of the board shall present such statement or changes to
3873 the Investment Advisory Council for review. The council shall
3874 present the results of its review to the board prior to the
3875 board's final approval of the statement or changes in the
3876 statement.

3877 (15) STATEMENT OF FIDUCIARY STANDARDS AND
3878 RESPONSIBILITIES.—

3879 (a) Investment of investment plan ~~optional defined~~
3880 ~~contribution retirement plan~~ assets shall be made for the sole
3881 interest and exclusive purpose of providing benefits to plan
3882 members participants and beneficiaries and defraying reasonable
3883 expenses of administering the plan. The program's assets shall
3884 ~~are to~~ be invested, on behalf of the members program
3885 ~~participants~~, with the care, skill, and diligence that a prudent
3886 person acting in a like manner would undertake. The performance

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3887 of the investment duties set forth in this paragraph shall
3888 comply with the fiduciary standards set forth in the Employee
3889 Retirement Income Security Act of 1974 at 29 U.S.C. s.
3890 1104(a)(1)(A)-(C). In case of conflict with other provisions of
3891 law authorizing investments, the investment and fiduciary
3892 standards set forth in this subsection shall prevail.

3893 (b) If a member participant or beneficiary of the
3894 investment plan ~~Public Employee Optional Retirement program~~
3895 exercises control over the assets in his or her account, as
3896 determined by reference to regulations of the United States
3897 Department of Labor under s. 404(c) of the Employee Retirement
3898 Income Security Act of 1974 and all applicable laws governing
3899 the operation of the program, a ~~no~~ program fiduciary is not
3900 ~~shall be~~ liable for any loss to a member's participant's or
3901 beneficiary's account which results from the member's such
3902 ~~participant's~~ or beneficiary's exercise of control.

3903 (c) Subparagraph (8)(b)2. ~~(8)(b)4.~~ and paragraph ~~(15)(b)~~
3904 incorporate the federal law concept of member participant
3905 control, established by regulations of the United States
3906 Department of Labor under s. 404(c) of the Employee Retirement
3907 Income Security Act of 1974 (ERISA). The purpose of this
3908 paragraph is to assist employers and the state board ~~of~~
3909 ~~Administration~~ in maintaining compliance with s. 404(c), while
3910 avoiding unnecessary costs and eroding member participant
3911 benefits under the investment plan ~~Public Employee Optional~~
3912 ~~Retirement program~~. Pursuant to 29 C.F.R. s. 2550.404c-
3913 1(b)(2)(i)(B)(1)(viii), the state board ~~of Administration~~ or its
3914 designated agents shall deliver to members participants of the
3915 investment plan ~~Public Employee Optional Retirement program~~ a

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3916 copy of the prospectus most recently provided to the plan, and,
3917 pursuant to 29 C.F.R. s. 2550.404c-1(b)(2)(i)(B)(2)(ii), shall
3918 provide such members ~~participants~~ an opportunity to obtain this
3919 information, except that:

3920 1. The requirement to deliver a prospectus shall be ~~deemed~~
3921 ~~to be~~ satisfied by delivery of a fund profile or summary profile
3922 that contains the information that would be included in a
3923 summary prospectus as described by Rule 498 under the Securities
3924 Act of 1933, 17 C.F.R. s. 230.498. If ~~When~~ the transaction fees,
3925 expense information, or other information provided by a mutual
3926 fund in the prospectus does not reflect terms negotiated by the
3927 state board ~~of Administration~~ or its designated agents, the
3928 ~~aforementioned~~ requirement is ~~deemed to be~~ satisfied by delivery
3929 of a separate document described by Rule 498 substituting
3930 accurate information; and

3931 2. Delivery shall be ~~deemed to have been~~ effected if
3932 delivery is through electronic means and the following standards
3933 are satisfied:

3934 a. Electronically-delivered documents are prepared and
3935 provided consistent with style, format, and content requirements
3936 applicable to printed documents;

3937 b. Each member ~~participant~~ is provided timely and adequate
3938 notice of the documents that are to be delivered and their
3939 significance thereof, and of the member's ~~participant's~~ right to
3940 obtain a paper copy of such documents free of charge;

3941 c. ~~(I) Members Participants~~ have adequate access to the
3942 electronic documents, at locations such as their worksites or
3943 public facilities, and have the ability to convert the documents
3944 to paper free of charge by the state board ~~of Administration,~~

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3945 and the board or its designated agents take appropriate and
3946 reasonable measures to ensure that the system for furnishing
3947 electronic documents results in actual receipt. ~~7~~ or

3948 ~~(II) Members Participants~~ have provided consent to receive
3949 information in electronic format, which consent may be revoked;
3950 and

3951 d. The state board ~~of Administration~~, or its designated
3952 agent, actually provides paper copies of the documents free of
3953 charge, upon request.

3954 (16) DISABILITY BENEFITS.—For any member participant of the
3955 investment plan ~~optional retirement program~~ who becomes totally
3956 and permanently disabled, benefits must ~~shall~~ be paid in
3957 accordance with ~~the provisions of~~ s. 121.591.

3958 (17) SOCIAL SECURITY COVERAGE.—Social security coverage
3959 shall be provided for all officers and employees who become
3960 members participants of the investment plan ~~optional program~~.
3961 Any modification of the present agreement with the Social
3962 Security Administration, or referendum required under the Social
3963 Security Act, for the purpose of providing social security
3964 coverage for any member shall be requested by the state agency
3965 in compliance with the applicable provisions of the Social
3966 Security Act governing such coverage. However, retroactive
3967 social security coverage for service before ~~prior to~~ December 1,
3968 1970, with the employer may ~~shall~~ not be provided for any member
3969 who was not covered under the agreement as of November 30, 1970.

3970 (18) RETIREE HEALTH INSURANCE SUBSIDY.—All officers and
3971 employees who are members participants of the investment plan
3972 are ~~optional program~~ shall be eligible to receive the retiree
3973 health insurance subsidy, subject to ~~the provisions of~~ s.

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3974 112.363.

3975 (19) MEMBER ~~PARTICIPANT~~ RECORDS.—Personal identifying
3976 information of a member of participant in the investment plan
3977 ~~Public Employee Optional Retirement Program~~ contained in Florida
3978 Retirement System records held by the state board ~~of~~
3979 ~~Administration~~ or the department ~~of Management Services~~ is
3980 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
3981 Constitution.

3982 (20) DESIGNATION OF BENEFICIARIES.—

3983 (a) Each member participant may, by electronic means or on
3984 a form provided for that purpose, signed and filed with the
3985 third-party administrator, designate a choice of one or more
3986 persons, named sequentially or jointly, as his or her
3987 beneficiary for receiving ~~who shall receive~~ the benefits, if
3988 any, which may be payable pursuant to this chapter in the event
3989 of the member's participant's death. If no beneficiary is named
3990 in this manner, or if no beneficiary designated by the member
3991 ~~participant~~ survives the member participant, the beneficiary
3992 shall be the spouse of the deceased, if living. If the member's
3993 ~~participant's~~ spouse is not alive at the time of the
3994 beneficiary's his or her death, the beneficiary shall be the
3995 member's living children ~~of the participant~~. If no children
3996 survive, the beneficiary shall be the member's participant's
3997 father or mother, if living; otherwise, the beneficiary shall be
3998 the member's participant's estate. The beneficiary most recently
3999 designated by a member participant ~~on a form or letter filed~~
4000 ~~with the third party administrator~~ shall be the beneficiary
4001 entitled to any benefits payable at the time of the member's
4002 ~~participant's~~ death. However ~~Notwithstanding any other provision~~

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4003 ~~in this subsection to the contrary, if a member for a~~
4004 ~~participant who dies before~~ prior to his or her effective date
4005 of retirement, the spouse at the time of death shall be the
4006 member's participant's beneficiary unless the member such
4007 ~~participant~~ designates a different beneficiary ~~as provided in~~
4008 ~~this subsection~~ subsequent to the member's participant's most
4009 recent marriage.

4010 (b) If a member participant designates a primary
4011 beneficiary other than the member's participant's spouse, the
4012 member's participant's spouse must sign the beneficiary
4013 designation form to acknowledge the designation. This
4014 requirement does not apply to the designation of one or more
4015 contingent beneficiaries to receive benefits remaining upon the
4016 death of the primary beneficiary or beneficiaries.

4017 (c) Notwithstanding the member's participant's designation
4018 of benefits to be paid through a trust to a beneficiary that is
4019 a natural person, ~~and notwithstanding~~ the provisions of the
4020 trust, benefits must ~~shall~~ be paid directly to the beneficiary
4021 if the person is no longer a minor or an incapacitated person as
4022 defined in s. 744.102.

4023 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT OPTION
4024 PROGRAM PARTICIPANTS.—Notwithstanding any other provision of law
4025 ~~to the contrary, members participating participants~~ in the
4026 Deferred Retirement Option Program offered under part I may,
4027 after conclusion of their participation in the program, elect to
4028 roll over or authorize a direct trustee-to-trustee transfer to
4029 an account under the investment plan ~~Public Employee Optional~~
4030 ~~Retirement Program~~ of their Deferred Retirement Option Program
4031 proceeds distributed as provided under s. 121.091(13)(c)5. The

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4032 transaction must constitute an "eligible rollover distribution"
4033 within the meaning of s. 402(c)(4) of the Internal Revenue Code.

4034 (a) The investment plan ~~Public Employee Optional Retirement~~
4035 ~~Program~~ may accept such amounts for deposit into member
4036 ~~participant~~ accounts as provided in paragraph (5)(e) ~~(5)(e)~~.

4037 (b) The affected member ~~participant~~ shall direct the
4038 investment of his or her investment account; however, unless he
4039 or she becomes a renewed member of the Florida Retirement System
4040 under s. 121.122 and elects to enroll ~~participate~~ in the
4041 investment plan ~~Public Employee Optional Retirement program~~,
4042 employer and employee contributions may not be made to the
4043 member's ~~participant's~~ account as provided under paragraph
4044 (5)(a).

4045 (c) The state board or the department is not responsible
4046 for locating those persons who may be eligible to enroll
4047 ~~participate~~ in the investment plan ~~Public Employee Optional~~
4048 ~~Retirement Program~~ under this subsection.

4049 (22) CREDIT FOR MILITARY SERVICE.—Creditable service of any
4050 member of the investment program includes ~~Public Employee~~
4051 ~~Optional Retirement Program~~ shall include military service in
4052 the Armed Forces of the United States as provided in ~~the~~
4053 ~~conditions outlined in~~ s. 121.111(1).

4054 Section 23. Section 121.4502, Florida Statutes, is amended
4055 to read:

4056 121.4502 Florida ~~Public Employee Optional Retirement System~~
4057 Investment Plan Program Trust Fund.—

4058 (1) The Florida ~~Public Employee Optional Retirement System~~
4059 Investment Plan Program Trust Fund is created to hold the assets
4060 of the Florida ~~Public Employee Optional Retirement System~~

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4061 Investment Plan Program in trust for the exclusive benefit of
4062 plan members ~~such program's participants~~ and beneficiaries, and
4063 for the payment of reasonable administrative expenses of the
4064 plan program, in accordance with s. 401 of the Internal Revenue
4065 Code, and shall be administered by the State Board of
4066 Administration as trustee. Funds shall be credited to the trust
4067 fund as provided in this part ~~and, to be used for the purposes~~
4068 of this part. The trust fund is exempt from the service charges
4069 imposed by s. 215.20.

4070 (2) The Florida Public Employee Optional Retirement System
4071 Investment Plan Program Trust Fund is a ~~retirement~~ trust fund of
4072 the Florida Retirement System that accounts for retirement plan
4073 assets held by the state in a trustee capacity as a fiduciary
4074 for individual members ~~participants~~ in the Florida Public
4075 ~~Employee Optional Retirement System~~ Investment Plan Program and,
4076 pursuant to s. 19(f), Art. III of the State Constitution, is not
4077 subject to termination.

4078 (3) A forfeiture account shall be created within the
4079 Florida Retirement System Investment Plan ~~Public Employee~~
4080 ~~Optional Retirement Program~~ Trust Fund to hold the assets
4081 derived from the forfeiture of benefits by participating members
4082 ~~participants~~. Pursuant to a private letter ruling from the
4083 Internal Revenue Service, the forfeiture account may be used
4084 only for paying expenses of the Florida Retirement System
4085 Investment Plan ~~Public Employee Optional Retirement Program~~ and
4086 reducing future employer contributions to the program.
4087 Consistent with Rulings 80-155 and 74-340 of the Internal
4088 Revenue Service, unallocated reserves within the forfeiture
4089 account must be used as quickly and as prudently as possible

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4090 considering the state board's fiduciary duty. Expected
4091 withdrawals from the account must endeavor to reduce the account
4092 to zero each fiscal year.

4093 Section 24. Subsections (1) and (3) of section 121.4503,
4094 Florida Statutes, are amended to read:

4095 121.4503 Florida Retirement System Contributions Clearing
4096 Trust Fund.—

4097 (1) The Florida Retirement System Contributions Clearing
4098 Trust Fund is created as a clearing fund for disbursing employer
4099 and employee contributions to the component plans of the Florida
4100 Retirement System and shall be administered by the department ~~of~~
4101 ~~Management Services~~. Funds shall be credited to the trust fund
4102 as provided in this chapter and ~~shall be~~ held in trust for the
4103 contributing employers and employees until ~~such time as~~ the
4104 assets are transferred by the department to the Florida
4105 Retirement System Trust Fund, the Florida Public Employee
4106 ~~Optional Retirement System Investment Plan Program~~ Trust Fund,
4107 or other trust funds as authorized by law, to be used for the
4108 purposes of this chapter. The trust fund is exempt from the
4109 service charges imposed by s. 215.20.

4110 (3) The department ~~of Management Services~~ may adopt rules
4111 governing the receipt and disbursement of amounts received by
4112 the Florida Retirement System Contributions Clearing Trust Fund
4113 from employers and employees contributing to the component plans
4114 of the Florida Retirement System.

4115 Section 25. Section 121.571, Florida Statutes, is amended
4116 to read:

4117 121.571 Contributions.—Contributions to the Florida Public
4118 ~~Employee Optional Retirement System Investment Plan Program~~

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4119 shall be made as follows:

4120 (1) CONTRIBUTORY ~~NONCONTRIBUTORY~~ PLAN.—Each employer and
4121 employee shall submit ~~accomplish~~ the contributions as required
4122 under ~~by~~ s. 121.71 ~~by a procedure in which no employee's gross~~
4123 ~~salary shall be reduced.~~

4124 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund the
4125 retirement and disability benefits provided under this part must
4126 ~~shall~~ be based on the uniform contribution rates established by
4127 s. 121.71 and on the membership class or subclass of the
4128 employee participant. Such contributions must ~~shall~~ be allocated
4129 as provided in ss. 121.72 and 121.73.

4130 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR
4131 RETIREE HEALTH INSURANCE SUBSIDY.—Contributions required under
4132 s. 121.71 ~~are this section shall be~~ in addition to employer and
4133 member contributions ~~required~~ for social security and the
4134 Retiree Health Insurance Subsidy Trust Fund as required under
4135 ~~provided in~~ ss. 112.363, 121.052, 121.055, and 121.071, as
4136 appropriate.

4137 Section 26. Section 121.591, Florida Statutes, is amended
4138 to read:

4139 121.591 Payment of benefits ~~payable under the Public~~
4140 ~~Employee Optional Retirement Program of the Florida Retirement~~
4141 ~~System.~~—Benefits may not be paid under the Florida Retirement
4142 System Investment Plan ~~this section~~ unless the member has
4143 terminated employment as provided in s. 121.021(39)(a) or is
4144 deceased and a proper application has been filed as ~~in the~~
4145 ~~manner~~ prescribed by the state board or the department. Before
4146 termination of employment, benefits are not payable under the
4147 investment plan for employee hardships, unforeseeable

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4148 emergencies, loans, medical expenses, educational expenses,
4149 purchase of a principal residence, payments necessary to prevent
4150 eviction or foreclosure on an employee's principal residence, or
4151 any other reason prior to termination from all employment
4152 relationships with participating employers. The state board or
4153 department, as appropriate, may cancel an application for
4154 retirement benefits if ~~when~~ the member or beneficiary fails to
4155 timely provide the information and documents required by this
4156 chapter and the rules of the state board and department. In
4157 accordance with their respective responsibilities ~~as provided~~
4158 ~~herein~~, the state board ~~of Administration~~ and the department ~~of~~
4159 ~~Management Services~~ shall adopt rules establishing procedures
4160 for application for retirement benefits and for the cancellation
4161 of such application if ~~when~~ the required information or
4162 documents are not received. The state board ~~of Administration~~
4163 and the department ~~of Management Services~~, as appropriate, are
4164 authorized to cash out a de minimis account of not more than
4165 \$5,000 of a member participant who has been terminated from
4166 Florida Retirement System covered employment for a minimum of 6
4167 calendar months. ~~A de minimis account is an account containing~~
4168 ~~employer contributions and accumulated earnings of not more than~~
4169 ~~\$5,000 made under the provisions of this chapter.~~ Such cash-out
4170 must ~~either~~ be a complete lump-sum liquidation of the account
4171 balance, subject to the provisions of the Internal Revenue Code,
4172 or a lump-sum direct rollover distribution paid directly to the
4173 custodian of an eligible retirement plan, as defined by the
4174 Internal Revenue Code, on behalf of the member participant. Any
4175 nonvested accumulations, including amounts transferred to the
4176 suspense account of the Florida Retirement System Investment

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4177 Plan Trust Fund, are forfeited upon payment of any vested
4178 benefit to a member or beneficiary, except for de minimis
4179 distributions or minimum required distributions as provided
4180 under this section. If any financial instrument issued for the
4181 payment of retirement benefits under this section is not
4182 presented for payment within 180 days after the last day of the
4183 month in which it was originally issued, the third-party
4184 administrator or other duly authorized agent of the state board
4185 ~~of Administration~~ shall cancel the instrument and credit the
4186 amount of the instrument to the suspense account of the Florida
4187 ~~Public Employee Optional Retirement~~ System Investment Plan
4188 ~~Program~~ Trust Fund authorized under s. 121.4501(6). Any ~~such~~
4189 amounts transferred to the suspense account are payable upon a
4190 proper application, not to include earnings thereon, as provided
4191 in this section, within 10 years after the last day of the month
4192 in which the instrument was originally issued, after which time
4193 such amounts and any earnings attributable to employer
4194 contributions are ~~thereon shall be~~ forfeited. Any ~~such~~ forfeited
4195 amounts are assets of the ~~Public Employee Optional Retirement~~
4196 ~~Program~~ trust fund and are not subject to the provisions of
4197 chapter 717.

4198 (1) NORMAL BENEFITS.—Under the Florida ~~Public Employee~~
4199 ~~Optional Retirement~~ System Investment Plan ~~Program~~:

4200 (a) Benefits in the form of vested accumulations as
4201 described in s. 121.4501(6) are payable under this subsection in
4202 accordance with the following terms and conditions:

4203 1. ~~To the extent vested,~~ Benefits are payable only to a
4204 member, alternate payee of a qualified domestic relations order,
4205 or a beneficiary participant.

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4206 2. Benefits shall be paid by the third-party administrator
4207 or designated approved providers in accordance with the law, the
4208 contracts, and any applicable board rule or policy.

4209 3. ~~To receive benefits,~~ The member participant must be
4210 terminated from all employment with all Florida Retirement
4211 System employers, as provided in s. 121.021(39).

4212 4. Benefit payments may not be made until the member
4213 ~~participant~~ has been terminated for 3 calendar months, except
4214 that the state board may authorize by rule for the distribution
4215 of up to 10 percent of the member's participant's account after
4216 being terminated for 1 calendar month if the member participant
4217 has reached the normal retirement date as defined in s. 121.021
4218 ~~of the defined benefit plan.~~

4219 5. If a member or former member of the Florida Retirement
4220 System receives an invalid distribution ~~from the Public Employee~~
4221 ~~Optional Retirement Program Trust Fund,~~ such person must repay
4222 the full amount ~~invalid distribution to the trust fund~~ within 90
4223 days after receipt of final notification by the state board or
4224 the third-party administrator that the distribution was invalid,
4225 or, in lieu of repayment, must terminate employment from all
4226 participating employers. If such person fails to repay the full
4227 invalid distribution within 90 days after receipt of final
4228 notification, the person may be deemed retired from the
4229 investment plan ~~optional retirement program~~ by the state board,
4230 ~~as provided pursuant to s. 121.4501(2)(k),~~ and is subject to s.
4231 121.122. If such person is deemed retired ~~by the state board,~~
4232 any joint and several liability set out in s. 121.091(9)(d)2. is
4233 ~~becomes~~ null and void, and the state board, the department, or
4234 the employing agency is not liable for gains on payroll

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4235 contributions that have not been deposited to the person's
4236 account in the investment plan ~~retirement program~~, pending
4237 resolution of the invalid distribution. The member or former
4238 member who has been deemed retired or who has been determined by
4239 the state board to have taken an invalid distribution may appeal
4240 the agency decision through the complaint process as provided
4241 under s. 121.4501(9)(g)3. As used in this subparagraph, the term
4242 "invalid distribution" means any distribution from an account in
4243 the investment plan ~~optional retirement program~~ which is taken
4244 in violation of this section, s. 121.091(9), or s. 121.4501.

4245 (b) If a member ~~participant~~ elects to receive his or her
4246 benefits upon termination of employment as defined in s.
4247 121.021, the member ~~participant~~ must submit a written
4248 application or an application by electronic means to the third-
4249 party administrator indicating his or her preferred distribution
4250 date and selecting an authorized method of distribution as
4251 provided in paragraph (c). The member ~~participant~~ may defer
4252 receipt of benefits until he or she chooses to make such
4253 application, subject to federal requirements.

4254 (c) Upon receipt by the third-party administrator of a
4255 properly executed application for distribution of benefits, the
4256 total accumulated benefit ~~is shall be~~ payable to the member pro
4257 rata across all Florida Retirement System benefit sources
4258 participant, as:

4259 1. A lump-sum or partial distribution to the member
4260 participant;

4261 2. A lump-sum direct rollover distribution whereby all
4262 accrued benefits, plus interest and investment earnings, are
4263 paid from the member's ~~participant's~~ account directly to the

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4264 custodian of an eligible retirement plan, as defined in s.
4265 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
4266 member participant; or

4267 3. Periodic distributions, as authorized by the state
4268 board.

4269 (d) The distribution payment method selected by the plan
4270 member or beneficiary, and the retirement of the member or
4271 beneficiary, is final and irrevocable at the time a benefit
4272 distribution payment is cashed, deposited, or transferred to
4273 another financial institution. Any additional service that
4274 remains unclaimed at retirement may not be claimed or purchased,
4275 and the type of retirement may not be changed, except that if a
4276 member recovers from a disability, the member may subsequently
4277 request normal service benefits under subsection (2).

4278 (e) A member may not receive a distribution of employee
4279 contributions if a pending or approved qualified domestic
4280 relations order is filed against the member's investment plan
4281 account.

4282 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided under
4283 this subsection are payable in lieu of the benefits that ~~which~~
4284 would otherwise be payable under the provisions of subsection
4285 (1). Such benefits must ~~shall~~ be funded ~~entirely~~ from employer
4286 contributions ~~made under s. 121.571~~, transferred employee
4287 contributions and participant funds accumulated pursuant to
4288 paragraph (a), and interest and earnings thereon. ~~Pursuant~~
4289 ~~thereto:~~

4290 (a) *Transfer of funds.*—To qualify for ~~to receive~~ monthly
4291 disability benefits under this subsection:

4292 1. All moneys accumulated in a member's account ~~the~~

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4293 ~~participant's Public Employee Optional Retirement Program~~
 4294 ~~accounts~~, including vested and nonvested accumulations as
 4295 described in s. 121.4501(6), must ~~shall~~ be transferred from such
 4296 individual accounts to the division ~~of Retirement~~ for deposit in
 4297 the disability account of the Florida Retirement System Trust
 4298 Fund. Such moneys must ~~shall~~ be ~~separately~~ accounted for
 4299 separately. Earnings must ~~shall~~ be credited on an annual basis
 4300 for amounts held in the disability accounts ~~of the Florida~~
 4301 ~~Retirement System Trust Fund~~ based on actual earnings of the
 4302 ~~Florida Retirement System~~ trust fund.

4303 2. If the member participant ~~has~~ retained retirement credit
 4304 ~~he or she had~~ earned under the pension plan defined benefit
 4305 ~~program of the Florida Retirement System~~ as provided in s.
 4306 121.4501(3) ~~s. 121.4501(3)(b)~~, a sum representing the actuarial
 4307 present value of such credit within the Florida Retirement
 4308 System Trust Fund shall be reassigned by the division ~~of~~
 4309 ~~Retirement~~ from the pension plan defined benefit program to the
 4310 disability program as implemented under this subsection and
 4311 shall be deposited in the disability account of the ~~Florida~~
 4312 ~~Retirement System~~ trust fund. Such moneys must ~~shall~~ be
 4313 ~~separately~~ accounted for separately.

4314 (b) *Disability retirement; entitlement.*—

4315 1. A member participant of the investment plan Public
 4316 ~~Employee Optional Retirement program~~ who becomes totally and
 4317 permanently disabled, as defined in paragraph (d) ~~s.~~
 4318 ~~121.091(4)(b)~~, after completing 8 years of creditable service,
 4319 or a member participant who becomes totally and permanently
 4320 disabled in the line of duty regardless of ~~his or her~~ length of
 4321 service, is ~~shall be~~ entitled to a monthly disability benefit ~~as~~

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4322 ~~provided herein.~~

4323 2. In order for service to apply toward the 8 years of
4324 creditable service required ~~to vest~~ for regular disability
4325 benefits, or toward the creditable service used in calculating a
4326 service-based benefit as provided ~~for~~ under paragraph (g), the
4327 service must be creditable service as described below:

4328 a. The member's ~~participant's~~ period of service under the
4329 investment plan shall ~~Public Employee Optional Retirement~~
4330 ~~program will~~ be considered creditable service, except as
4331 provided in subparagraph d.

4332 b. If the member ~~participant~~ has elected to retain credit
4333 for ~~his or her~~ service under the pension plan defined benefit
4334 ~~program of the Florida Retirement System~~ as provided under s.
4335 121.4501(3) ~~s. 121.4501(3)(b)~~, all such service shall ~~will~~ be
4336 considered creditable service.

4337 c. If the member elects ~~participant has elected~~ to transfer
4338 to his or her member ~~participant~~ accounts a sum representing the
4339 present value of his or her retirement credit under the pension
4340 plan defined benefit program as provided under s. 121.4501(3) ~~s.~~
4341 ~~121.4501(3)(e)~~, the period of service under the pension plan
4342 ~~defined benefit program~~ represented in the present value amounts
4343 transferred shall ~~will~~ be considered creditable service ~~for~~
4344 ~~purposes of vesting for disability benefits~~, except as provided
4345 in subparagraph d.

4346 d. If a member ~~Whenever a participant~~ has terminated
4347 employment and has taken distribution of his or her funds as
4348 provided in subsection (1), all creditable service represented
4349 by such distributed funds is forfeited for purposes of this
4350 subsection.

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4351 (c) *Disability retirement effective date.*—The effective
4352 retirement date for a member participant who applies and is
4353 approved for disability retirement shall be established as
4354 provided under s. 121.091(4) (a)2. and 3.

4355 (d) *Total and permanent disability.*—A member is participant
4356 ~~shall be~~ considered totally and permanently disabled if, in the
4357 opinion of the division, he or she is prevented, by reason of a
4358 medically determinable physical or mental impairment, from
4359 rendering useful and efficient service as an officer or
4360 employee.

4361 (e) *Proof of disability.*—~~The division,~~ Before approving
4362 payment of any disability retirement benefit, the division shall
4363 require proof that the member participant is totally and
4364 permanently disabled ~~in the same manner~~ as provided ~~for members~~
4365 ~~of the defined benefit program of the Florida Retirement System~~
4366 under s. 121.091(4) (c).

4367 (f) *Disability retirement benefit.*—Upon the disability
4368 retirement of a member participant under this subsection, the
4369 member participant shall receive a monthly benefit that begins
4370 accruing ~~shall begin to accrue~~ on the first day of the month of
4371 disability retirement, as approved by the division, and is ~~shall~~
4372 ~~be~~ payable on the last day of that month and each month
4373 thereafter during his or her lifetime and continued disability.
4374 All disability benefits must ~~payable to such member shall~~ be
4375 paid out of the disability account of the Florida Retirement
4376 System Trust Fund established under this subsection.

4377 (g) *Computation of disability retirement benefit.*—The
4378 amount of each monthly payment must ~~shall~~ be calculated ~~in the~~
4379 ~~same manner~~ as provided ~~for members of the defined benefit~~

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4380 ~~program of the Florida Retirement System~~ under s. 121.091(4)(f).
4381 ~~For such purpose,~~ Creditable service under both the pension plan
4382 ~~defined benefit program~~ and the investment plan ~~Public Employee~~
4383 ~~Optional Retirement Program of the Florida Retirement System~~
4384 shall be applicable as provided under paragraph (b).

4385 (h) *Reapplication.*—A member participant whose initial
4386 application for disability retirement is ~~has been~~ denied may
4387 reapply for disability benefits in the same manner, and under
4388 the same conditions, as provided for members of the pension plan
4389 ~~defined benefit program of the Florida Retirement System~~ under
4390 s. 121.091(4)(g).

4391 (i) *Membership.*—Upon approval of a member's ~~an~~ application
4392 for disability benefits ~~under this subsection,~~ the applicant
4393 shall be transferred to the pension plan ~~defined benefit program~~
4394 ~~of the Florida Retirement System,~~ effective upon his or her
4395 disability retirement effective date.

4396 (j) *Option to cancel.*—A member ~~Any participant~~ whose
4397 application for disability benefits is approved may cancel the
4398 ~~his or her~~ application if ~~for disability benefits, provided that~~
4399 the cancellation request is received by the division before a
4400 disability retirement warrant has been deposited, cashed, or
4401 received by direct deposit. Upon ~~such~~ cancellation:

4402 1. The member's ~~participant's~~ transfer to the pension plan
4403 ~~defined benefit program~~ under paragraph (i) shall be nullified;

4404 2. The member participant shall be retroactively reinstated
4405 in the investment plan ~~Public Employee Optional Retirement~~
4406 ~~program~~ without hiatus;

4407 3. All funds transferred to the Florida Retirement System
4408 Trust Fund under paragraph (a) must ~~shall~~ be returned to the

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4409 ~~member participant~~ accounts from which the ~~such~~ funds were
4410 drawn; and

4411 4. The ~~member participant~~ may elect to receive the benefit
4412 payable under ~~the provisions of~~ subsection (1) in lieu of
4413 disability benefits ~~as provided under this subsection.~~

4414 (k) *Recovery from disability.*—

4415 1. The division may require periodic reexaminations at the
4416 expense of the disability program account of the Florida
4417 Retirement System Trust Fund. Except as ~~otherwise~~ provided in
4418 subparagraph 2., ~~the requirements, procedures, and restrictions~~
4419 ~~relating to the conduct and review of such reexaminations,~~
4420 ~~discontinuation or termination of benefits, reentry into~~
4421 ~~employment, disability retirement after reentry into covered~~
4422 ~~employment, and all other matters relating to recovery from~~
4423 disability shall be ~~the same as~~ provided ~~are set forth~~ under s.
4424 121.091(4)(h).

4425 2. Upon recovery from disability, the ~~any~~ recipient of
4426 disability retirement benefits under this subsection shall be
4427 transferred back to the investment plan ~~a compulsory member of~~
4428 ~~the Public Employee Optional Retirement Program of the Florida~~
4429 ~~Retirement System.~~ The net difference between the recipient's
4430 original account balance transferred to the Florida Retirement
4431 System Trust Fund, including earnings, ~~under paragraph (a)~~ and
4432 total disability benefits paid to such recipient, if any, shall
4433 be determined as provided in sub-subparagraph a.

4434 a. An amount equal to the total benefits paid shall be
4435 subtracted from that portion of the transferred account balance
4436 consisting of vested accumulations as described under s.
4437 121.4501(6), if any, and an amount equal to the remainder of

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4438 benefit amounts paid, if any, shall ~~then~~ be subtracted from any
4439 remaining ~~portion consisting of~~ nonvested accumulations ~~as~~
4440 ~~described under s. 121.4501(6).~~

4441 b. Amounts subtracted under sub-subparagraph a. must ~~shall~~
4442 be retained within the disability account of the Florida
4443 Retirement System Trust Fund. Any remaining account balance
4444 shall be transferred to the third-party administrator for
4445 disposition as provided under sub-subparagraph c. or sub-
4446 subparagraph d., as appropriate.

4447 c. If the recipient returns to covered employment,
4448 transferred amounts must ~~shall~~ be deposited in individual
4449 accounts under the investment plan ~~Public Employee Optional~~
4450 ~~Retirement program~~, as directed by the member ~~participant~~.
4451 Vested and nonvested amounts shall be separately accounted for
4452 as provided in s. 121.4501(6).

4453 d. If the recipient fails to return to covered employment
4454 upon recovery from disability:

4455 (I) Any remaining vested amount must ~~shall~~ be deposited in
4456 individual accounts under the investment plan ~~Public Employee~~
4457 ~~Optional Retirement program~~, as directed by the member
4458 ~~participant~~, and is ~~shall~~ be payable as provided in subsection
4459 (1).

4460 (II) Any remaining nonvested amount must ~~shall~~ be held in a
4461 suspense account and is ~~shall~~ be forfeitable after 5 years as
4462 provided in s. 121.4501(6).

4463 3. If present value was reassigned from the pension plan
4464 ~~defined benefit program~~ to the disability program ~~of the Florida~~
4465 ~~Retirement System~~ as provided under subparagraph (a)2., the full
4466 present value amount must ~~shall~~ be returned to the pension plan

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4467 ~~defined benefit account~~ within the Florida Retirement System
 4468 Trust Fund and the recipient's ~~affected individual's~~ associated
 4469 retirement credit under the pension plan ~~must defined benefit~~
 4470 ~~program shall~~ be reinstated in full. Any benefit based upon such
 4471 credit must ~~shall~~ be calculated as provided in s.
 4472 121.091(4)(h)1.

4473 (l) *Nonadmissible causes of disability.*—A member is
 4474 ~~participant shall~~ not be entitled to receive a disability
 4475 retirement benefit if the disability results from any injury or
 4476 disease ~~sustained or inflicted~~ as described in s. 121.091(4)(i).

4477 (m) *Disability retirement of justice or judge by order of*
 4478 *Supreme Court.*—

4479 1. If a member ~~participant~~ is a justice of the Supreme
 4480 Court, judge of a district court of appeal, circuit judge, or
 4481 judge of a county court who has served for 6 years or more as an
 4482 elected constitutional judicial officer, including service as a
 4483 judicial officer in any court abolished pursuant to Art. V of
 4484 the State Constitution, and who is retired for disability ~~by~~
 4485 ~~order of the Supreme Court upon recommendation of the Judicial~~
 4486 ~~Qualifications Commission pursuant to s. 12,~~ the provisions of
 4487 Art. V of the State Constitution, the member's ~~participant's~~
 4488 Option 1 monthly disability benefit amount as provided in s.
 4489 121.091(6)(a)1. shall be two-thirds of his or her monthly
 4490 compensation as of the member's ~~participant's~~ disability
 4491 retirement date. The member ~~Such a participant~~ may alternatively
 4492 elect to receive an actuarially adjusted disability retirement
 4493 benefit under any other option as provided in s. 121.091(6)(a),
 4494 or ~~to~~ receive the normal benefit payable under ~~the Public~~
 4495 ~~Employee Optional Retirement Program as set forth in~~ subsection

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4496 (1).

4497 2. If any justice or judge who is a member ~~participant~~ of
4498 the investment plan ~~Public Employee Optional Retirement program~~
4499 ~~of the Florida Retirement System~~ is retired for disability ~~by~~
4500 ~~order of the Supreme Court upon recommendation of the Judicial~~
4501 ~~Qualifications Commission pursuant to s. 12, the provisions of~~
4502 Art. V of the State Constitution, and elects to receive a
4503 monthly disability benefit under ~~the provisions of this~~
4504 paragraph:

4505 a. Any present value amount that was transferred to his or
4506 her plan ~~program~~ account and all employer and employee
4507 contributions made to such account on his or her behalf, plus
4508 interest and earnings thereon, must ~~shall~~ be transferred to and
4509 deposited in the disability account of the Florida Retirement
4510 System Trust Fund; and

4511 b. The monthly disability benefits payable under this
4512 paragraph for any affected justice or judge retired from the
4513 Florida Retirement System pursuant to Art. V of the State
4514 Constitution shall be paid from the disability account of the
4515 Florida Retirement System Trust Fund.

4516 (n) *Death of retiree or beneficiary.*—Upon the death of a
4517 disabled retiree or beneficiary of the retiree ~~thereof~~ who is
4518 receiving monthly disability benefits under this subsection, the
4519 monthly benefits shall be paid through the last day of the month
4520 of death and shall terminate, or be adjusted, if applicable, as
4521 of that date in accordance with the optional form of benefit
4522 selected at the time of retirement. The department ~~of Management~~
4523 ~~Services~~ may adopt rules necessary to administer this paragraph.

4524 (3) DEATH BENEFITS.—Under the Florida ~~Public Employee~~

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4525 ~~Optional Retirement System Investment Plan Program:~~

4526 (a) Survivor benefits are ~~shall be~~ payable in accordance
4527 with the following terms and conditions:

4528 1. ~~To the extent vested,~~ Benefits are ~~shall be~~ payable only
4529 to a member's participant's ~~beneficiary or~~ beneficiaries as
4530 designated by the member participant as provided in s.
4531 121.4501(20).

4532 2. Benefits shall be paid by the third-party administrator
4533 or designated approved providers in accordance with the law, the
4534 contracts, and any applicable state board rule or policy.

4535 3. To receive benefits ~~under this subsection,~~ the member
4536 ~~participant~~ must be deceased.

4537 (b) Except as provided in paragraph (d), if the employment
4538 of a member is terminated by reason of his or her ~~In the event~~
4539 ~~of a participant's death:~~

4540 1. Before being vested, only the member's accumulated
4541 contributions are payable to his or her designated beneficiary.

4542 2. After being vested, all vested accumulations as
4543 described in s. 121.4501(6), less withholding taxes remitted to
4544 the Internal Revenue Service, shall be distributed, as provided
4545 in paragraph (c) or as described in s. 121.4501(20), as if the
4546 member participant retired on the date of death. No other death
4547 benefits are ~~shall be~~ available for survivors of members
4548 ~~participants~~ under the investment plan ~~Public Employee Optional~~
4549 ~~Retirement Program,~~ except for ~~such~~ benefits, or coverage for
4550 ~~such~~ benefits, as are otherwise provided by law or ~~are~~
4551 separately provided ~~afforded~~ by the employer, at the employer's
4552 discretion.

4553 (c) Upon receipt by the third-party administrator of a

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4554 properly executed application for distribution of benefits under
4555 paragraph (b), the total accumulated benefit is ~~shall be~~ payable
4556 by the third-party administrator to the member's participant's
4557 surviving beneficiary or beneficiaries, as:

4558 1. A lump-sum distribution payable to the beneficiary or
4559 beneficiaries, or to the deceased member's participant's estate;

4560 2. An eligible rollover distribution on behalf of the
4561 surviving spouse of a deceased member participant, whereby all
4562 accrued benefits, plus interest and investment earnings, are
4563 paid from the deceased member's participant's account directly
4564 to the custodian of an eligible retirement plan, as described in
4565 s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
4566 surviving spouse; or

4567 3. A partial lump-sum payment whereby a portion of the
4568 accrued benefit is paid to the deceased member's participant's
4569 surviving spouse or other designated beneficiaries, less
4570 withholding taxes remitted to the Internal Revenue Service, and
4571 the remaining amount is transferred directly to the custodian of
4572 an eligible retirement plan, as described in s. 402(c)(8)(B) of
4573 the Internal Revenue Code, on behalf of the surviving spouse.
4574 The proportions must be specified by the member participant or
4575 the surviving beneficiary.

4576
4577 This paragraph does not abrogate other applicable provisions of
4578 state or federal law providing for payment of death benefits.

4579 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to
4580 any person under the Florida Public Employee Optional Retirement
4581 System Investment Plan Program, and any contributions
4582 accumulated under such plan program, are not subject to

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4583 assignment, execution, attachment, or any legal process, except
4584 for qualified domestic relations orders by a court of competent
4585 jurisdiction, income deduction orders as provided in s. 61.1301,
4586 and federal income tax levies.

4587 Section 27. Section 121.5911, Florida Statutes, is amended
4588 to read:

4589 121.5911 Disability retirement program; qualified status;
4590 rulemaking authority.—It is the intent of the Legislature that
4591 the disability retirement program for members ~~participants~~ of
4592 the Florida Public Employee Optional Retirement System
4593 Investment Plan Program ~~as created in this act~~ must meet all
4594 applicable requirements of federal law for a qualified plan. The
4595 department ~~of Management Services~~ shall seek a private letter
4596 ruling from the Internal Revenue Service on the disability
4597 retirement program ~~for participants of the Public Employee~~
4598 ~~Optional Retirement Program~~. Consistent with the private letter
4599 ruling, the department ~~of Management Services~~ shall adopt any
4600 necessary rules necessary ~~required~~ to maintain the qualified
4601 status of the disability retirement program and the Florida
4602 Retirement System's pension System ~~defined benefit~~ plan.

4603 Section 28. Subsection (1) of section 121.70, Florida
4604 Statutes, is amended to read:

4605 121.70 Legislative purpose and intent.—

4606 (1) This part provides for a uniform system for funding
4607 benefits provided under the Florida Retirement System defined
4608 benefit program established under part I of this chapter,
4609 ~~(referred to in this part as the pension plan, ~~defined benefit~~~~
4610 ~~program)~~ and under the Florida Public Employee Optional
4611 Retirement System Investment Plan Program established under part

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4612 II of this chapter, ~~(referred to in this part as the investment~~
 4613 ~~plan optional retirement program)~~. The Legislature recognizes
 4614 and declares that the Florida Retirement System is a single
 4615 retirement system, consisting of two retirement plans and other
 4616 nonintegrated programs. Employers and employees participating in
 4617 the Florida Retirement System collectively shall be responsible
 4618 for making contributions to support the benefits provided
 4619 ~~afforded~~ under both programs ~~plans~~. ~~The~~ As provided in this
 4620 ~~part,~~ employers and employees ~~participating in the Florida~~
 4621 ~~Retirement System~~ shall make contributions based upon uniform
 4622 contribution rates determined as a percentage of the total
 4623 payroll for each class or subclass of Florida Retirement System
 4624 membership, irrespective of which retirement program the plan
 4625 individual employee is enrolled in ~~employees may elect~~. This
 4626 shall be known as a uniform or blended contribution rate system.

4627 Section 29. Subsections (1) and (2) of section 121.71,
 4628 Florida Statutes, are amended, present subsections (3) and (4)
 4629 of that section are renumbered as subsections (4) and (7),
 4630 respectively, and new subsections (3), (5), and (6) are added to
 4631 that section, to read:

4632 121.71 Uniform rates; process; calculations; levy.—

4633 (1) In conducting the system actuarial study required under
 4634 s. 121.031, the actuary shall follow all requirements specified
 4635 ~~thereunder~~ to determine, by Florida Retirement System employee
 4636 membership class, the dollar contribution amounts necessary for
 4637 the next forthcoming fiscal year for the pension plan defined
 4638 ~~benefit program~~. In addition, the actuary shall determine, by
 4639 Florida Retirement System membership class, based on an estimate
 4640 for the forthcoming fiscal year of the gross compensation of

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4641 employees participating in the investment plan ~~optional~~
4642 ~~retirement program~~, the dollar contribution amounts necessary to
4643 make the allocations required under ss. 121.72 and 121.73. For
4644 each employee membership class and subclass, the actuarial study
4645 must shall establish a uniform rate necessary to fund the
4646 benefit obligations under both Florida Retirement System
4647 retirement plans by dividing the sum of total dollars required
4648 by the estimated gross compensation of members in both plans.

4649 (2) Based on the uniform rates set forth in subsections
4650 ~~subsection~~ (3), (4), and (5), employers and employees shall make
4651 monthly contributions to the division as required under s.
4652 121.061(1) of Retirement, which shall initially deposit the
4653 funds into the Florida Retirement System Contributions Clearing
4654 Trust Fund. A change in a contribution rate is effective on the
4655 first day of the month for which a full month's ~~employer~~
4656 contribution may be made on or after the beginning date of the
4657 change. Beginning July 1, 2011, each employee shall contribute
4658 the contributions required in subsection (3) to the plan. The
4659 employer shall deduct the contribution from the employee's
4660 monthly salary and submit it to the division. The contributions
4661 shall be reported as employer-paid employee contributions, and
4662 shall be credited to the account of the employee. The
4663 contributions shall be deducted from the employee's salary
4664 before the computation of applicable federal taxes and treated
4665 as employer contributions under 26 U.S.C. 414(h) (2). Although
4666 designated as employee contributions, the employer specifies
4667 that the contributions are being paid by the employer in lieu of
4668 contributions by the employee. The employee does not have the
4669 option of choosing to receive the contributed amounts directly

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4670 instead of having them paid to the plan. Such contributions are
 4671 mandatory and each employee is deemed to have consented to the
 4672 payroll deductions. Payment of an employee's salary or wages,
 4673 less the contribution, is a full and complete discharge and
 4674 satisfaction of all claims and demands for the service rendered
 4675 by employees during the period covered by the payment, except
 4676 for claims to benefits to which they may be entitled under this
 4677 chapter.

4678 (3) Effective July 1, 2011, the required employee
 4679 retirement contribution rates for all members of the Florida
 4680 Retirement System shall be 2 percent for gross compensation up
 4681 to and including \$25,000, 4 percent for gross compensation
 4682 greater than \$25,000 and up to and including \$50,000, and 6
 4683 percent for gross compensation greater than \$50,000.

4684 (4)~~(3)~~ Required employer retirement contribution rates for
 4685 each membership class and subclass of the Florida Retirement
 4686 System for both retirement plans are as follows:
 4687

Membership Class	Percentage of Gross Compensation, Effective July 1, <u>2011</u> 2009	Percentage of Gross Compensation, Effective July 1, 2010
Regular Class	<u>5.09%</u> 8.69%	9.63%

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4691	Special Risk Class	<u>13.80%</u> 19.76%	22.11%
	Special Risk Administrative Support Class	<u>6.67%</u> 11.39%	12.10%
4692	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>9.46%</u> 13.32%	15.20%
4693	Elected Officers' Class— Justices, Judges	<u>12.02%</u> 18.40%	20.65%
4694	Elected Officers' Class— County Elected Officers	<u>11.44%</u> 15.37%	17.50%
4695	Senior Management Class	<u>6.88%</u> 11.96%	13.43%
4696	DROP	<u>3.12%</u> 9.80%	11.14%

4697
 4698 (5) In order to address unfunded actuarial liabilities of
 4699 the system, the required employer retirement contribution rates
 4700 for each membership class and subclass of the Florida Retirement
 4701 System for both retirement plans are as follows:
 4702

Percentage of

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Officers

4709

Senior Management Class 0.00%

4710

DROP 0.00%

4711

4712 (6) If a member is reported under an incorrect membership
 4713 class and the amount of contributions reported and remitted are
 4714 less than the amount required, the employer shall owe the
 4715 difference plus the delinquent fee of 1 percent for each
 4716 calendar month or part thereof that the contributions should
 4717 have been paid. This delinquent assessment may not be waived. If
 4718 the contributions reported and remitted are more than the amount
 4719 required, the employer shall receive a credit to be applied
 4720 against future contributions owed.

4721 (7)~~(4)~~ The state actuary shall recognize and use an
 4722 appropriate level of available excess assets of the Florida
 4723 Retirement System Trust Fund to offset the difference between
 4724 the normal costs of the Florida Retirement System and the
 4725 statutorily prescribed contribution rates.

4726 Section 30. Section 121.72, Florida Statutes, is amended to
 4727 read:

4728 121.72 Allocations to investment plan member ~~optional~~
 4729 ~~retirement program participant~~ accounts; percentage amounts.—

4730 (1) The allocations established in subsection (4) shall
 4731 fund retirement benefits under the investment plan under part II
 4732 of this chapter ~~optional retirement program~~ and shall be
 4733 transferred monthly by the division ~~of Retirement~~ from the
 4734 Florida Retirement System Contributions Clearing Trust Fund to

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4735 the third-party administrator for deposit in each participating
 4736 employee's individual account based on the membership class of
 4737 the employee participant.

4738 (2) The allocations are stated as a percentage of each
 4739 investment plan member's optional retirement program
 4740 ~~participant's~~ gross compensation for the calendar month. A
 4741 change in a contribution percentage is effective the first day
 4742 of the month for which retirement contributions ~~a full month's~~
 4743 ~~employer contribution~~ may be made on or after the beginning date
 4744 of the change. Contribution percentages may be modified by
 4745 general law.

4746 (3) Employer and employee participant contributions to
 4747 member's participant accounts shall be accounted for separately.
 4748 ~~Participant contributions may be made only if expressly~~
 4749 ~~authorized by law.~~ Interest and investment earnings on
 4750 contributions shall accrue on a tax-deferred basis until
 4751 proceeds are distributed.

4752 (4) Effective July 1, 2011 ~~July 1, 2002~~, allocations from
 4753 the Florida Retirement System Contributions Clearing Trust Fund
 4754 to investment plan member optional retirement program
 4755 participant accounts, including employee contributions required
 4756 under s. 121.71(3), are shall be as follows:

Membership Class	Percentage of Gross Compensation
Regular Class	9.00%
Special Risk Class	20.00%

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4760 Special Risk Administrative Support
Class 11.35%

4761 Elected Officers' Class—
Legislators, Governor,
Lt. Governor, Cabinet Officers,
State Attorneys, Public Defenders 13.40%

4762 Elected Officers' Class—
Justices, Judges 18.90%

4763 Elected Officers' Class—
County Elected Officers 16.20%

4764 Senior Management Service Class 10.95%

4765

4766 Section 31. Section 121.73, Florida Statutes, is amended to
4767 read:

4768 121.73 Allocations for member ~~optional retirement program~~
4769 ~~participant~~ disability coverage; percentage amounts.—

4770 (1) The allocations established in subsection (3) shall be
4771 used to provide disability coverage for members of the
4772 investment plan ~~participants in the optional retirement program~~
4773 and shall be transferred monthly by the division of ~~Retirement~~
4774 from the Florida Retirement System Contributions Clearing Trust
4775 Fund to the disability account of the Florida Retirement System
4776 Trust Fund.

4777 (2) The allocations are stated as a percentage of each

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4778 investment plan member's ~~optional retirement program~~
 4779 ~~participant's~~ gross compensation for the calendar month. A
 4780 change in a contribution percentage is effective the first day
 4781 of the month for which retirement contributions ~~a full month's~~
 4782 ~~employer contribution~~ may be made on or after the beginning date
 4783 of the change. Contribution percentages may be modified by
 4784 general law.

4785 (3) Effective July 1, 2002, allocations from the Florida
 4786 Retirement System ~~FRS~~ Contribution Clearing Fund to provide
 4787 disability coverage for members of the investment plan
 4788 ~~participants in the optional retirement program~~, and to offset
 4789 the costs of administering said coverage, shall be as follows:
 4790

Membership Class	Percentage of Gross Compensation
4791 Regular Class	0.25%
4792 Special Risk Class	1.33%
4793 Special Risk Administrative Support Class	0.45%
4794 Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
4795 Elected Officers' Class—	0.73%

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Justices, Judges

4796

Elected Officers' Class—

County Elected Officers 0.41%

4797

Senior Management Service Class 0.26%

4798

4799 (4) Effective July 1, 2011, allocations from the Florida
 4800 Retirement System Contribution Clearing Fund to provide
 4801 disability coverage for members of the investment plan and to
 4802 offset the costs of administering such coverage shall be the
 4803 actuarially indicated amount necessary to fund the statutorily
 4804 authorized benefit for the plan year as determined by the
 4805 department's actuary.

4806 Section 32. Section 121.74, Florida Statutes, is amended to
 4807 read:

4808 121.74 Administrative and educational expenses.—In addition
 4809 to contributions required under ss. ~~§~~ 121.71 and 121.73,
 4810 effective July 1, 2010, through June 30, 2014, employers
 4811 participating in the Florida Retirement System shall contribute
 4812 an amount equal to 0.03 percent of the payroll reported for each
 4813 class or subclass of Florida Retirement System membership;
 4814 effective July 1, 2014, the contribution rate shall be 0.04
 4815 percent of the payroll reported for each class or subclass of
 4816 membership. The amount contributed shall be transferred by the
 4817 division of ~~Retirement~~ from the Florida Retirement System
 4818 Contributions Clearing Trust Fund to the state board's Board of
 4819 ~~Administration's~~ administrative trust fund to offset the costs
 4820 of administering the investment plan ~~optional retirement program~~

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4821 and the costs of providing educational services to members
4822 participating ~~participants~~ in the pension plan ~~defined benefit~~
4823 ~~program~~ and the investment plan ~~optional retirement program~~.
4824 Approval of the trustees is required before the expenditure of
4825 these funds. Payments for third-party administrative or
4826 educational expenses shall be made only pursuant to the terms of
4827 the approved contracts for such services.

4828 Section 33. Section 121.75, Florida Statutes, is amended to
4829 read:

4830 121.75 Allocation for pension plan ~~defined benefit~~
4831 ~~program~~.—After making the transfers required pursuant to ss.
4832 121.71, 121.72, 121.73, and 121.74, the monthly balance of funds
4833 in the Florida Retirement System Contributions Clearing Trust
4834 Fund shall be transferred to the Florida Retirement System Trust
4835 Fund to pay the costs of providing pension plan ~~defined benefit~~
4836 ~~program~~ benefits and plan administrative costs under the pension
4837 plan ~~defined benefit program~~.

4838 Section 34. Section 121.77, Florida Statutes, is amended to
4839 read:

4840 121.77 Deductions from member ~~participant~~ accounts.—The
4841 State Board of Administration may authorize the third-party
4842 administrator to deduct reasonable fees and apply appropriate
4843 charges to investment plan member ~~optional retirement program~~
4844 ~~participant~~ accounts. In no event may ~~shall~~ administrative and
4845 educational expenses exceed the portion of employer
4846 contributions earmarked for such expenses under this part,
4847 except for reasonable administrative charges assessed against
4848 member ~~participant~~ accounts of persons for whom no employer
4849 contributions are made during the calendar quarter. Investment

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4850 management fees shall be deducted from member participant
4851 accounts, pursuant to the terms of the contract between the
4852 provider and the board.

4853 Section 35. Subsections (1) and (3) of section 121.78,
4854 Florida Statutes, are amended to read:

4855 121.78 Payment and distribution of contributions.—

4856 (1) Contributions made pursuant to this part, including the
4857 employee contributions, shall be paid by the employer to the
4858 division ~~of Retirement~~ by electronic funds transfer no later
4859 than the 5th working day of the month immediately following the
4860 month during which the payroll period ended. Accompanying
4861 payroll data must be transmitted to the division concurrent with
4862 the contributions.

4863 (3) (a) Employer and employee contributions and accompanying
4864 payroll data received after the 5th working day of the month are
4865 considered late. The employer shall be assessed by the division
4866 ~~of Retirement~~ a penalty of 1 percent of the contributions due
4867 for each calendar month or part thereof that the contributions
4868 or accompanying payroll data are late. Proceeds from the 1
4869 percent ~~1 percent~~ assessment against contributions made on
4870 behalf of members of the pension plan participants ~~of the~~
4871 ~~defined benefit program~~ shall be deposited in the Florida
4872 Retirement System Trust Fund, and proceeds from the 1 percent ~~1-~~
4873 ~~percent~~ assessment against contributions made on behalf of
4874 members of the investment plan participants ~~of the optional~~
4875 ~~retirement program~~ shall be transferred to the third-party
4876 administrator for deposit into member participant accounts, as
4877 provided in paragraph (c) ~~(b)~~.

4878 (b) Retirement contributions paid for a prior period shall

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4879 be charged a delinquent fee of 1 percent for each calendar month
4880 or part thereof that the contributions should have been paid.
4881 This includes prior period contributions due to incorrect wages,
4882 contributions from an earlier report or wages, and contributions
4883 that should have been reported but were not. The delinquent
4884 assessments may not be waived.

4885 (c) ~~(b)~~ If employee contributions or contributions made by
4886 an employer on behalf of members of the investment plan
4887 ~~participants of the optional retirement program~~ or accompanying
4888 payroll data are not received within the calendar month they are
4889 due, including, but not limited to, contribution adjustments as
4890 a result of employer errors or corrections, and if that
4891 delinquency results in market losses to members participants,
4892 the employer shall reimburse each member's participant's account
4893 for market losses resulting from the late contributions. If a
4894 member participant has terminated employment and taken a
4895 distribution, the member participant is responsible for
4896 returning any excess contributions erroneously provided by
4897 employers, adjusted for any investment gain or loss incurred
4898 during the period such excess contributions were in the member's
4899 participant's account. The state board or its designated agent
4900 shall communicate to terminated members participants any
4901 obligation to repay such excess contribution amounts. However,
4902 the state board, its designated agents, the Florida Public
4903 ~~Employee Optional Retirement System Investment Plan Program~~
4904 Trust Fund, the department, or the Florida Retirement System
4905 Trust Fund may not incur any loss or gain as a result of an
4906 employer's correction of such excess contributions. The third-
4907 party administrator, hired by the state board pursuant to s.

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4908 121.4501(8), shall calculate the market losses for each affected
4909 member participant. If contributions made on behalf of members
4910 of the investment plan participants of the optional retirement
4911 program or accompanying payroll data are not received within the
4912 calendar month due, the employer shall also pay the cost of the
4913 third-party administrator's calculation and reconciliation
4914 adjustments resulting from the late contributions. The third-
4915 party administrator shall notify the employer of the results of
4916 the calculations and the total amount due from the employer for
4917 such losses and the costs of calculation and reconciliation. The
4918 employer shall remit to the division ~~of Retirement~~ the amount
4919 due within 30 working days after the date of the penalty notice
4920 sent by the division. The division shall transfer that amount to
4921 the third-party administrator, which shall deposit proceeds from
4922 the 1 percent ~~1 percent~~ assessment and from individual market
4923 losses into member participant accounts, as appropriate. The
4924 state board may adopt rules to administer the provisions
4925 regarding late contributions, late submission of payroll data,
4926 the process for reimbursing member participant accounts for
4927 resultant market losses, and the penalties charged to the
4928 employers.

4929 (d) If employee contributions reported by an employer on
4930 behalf of the employee are reduced as a result of employer
4931 errors or corrections and the employee has terminated employment
4932 and taken a refund or distribution, the employer shall be billed
4933 and is responsible for recovering from the employee any excess
4934 contributions erroneously provided by the employer.

4935 (e) ~~(e)~~ Delinquency fees specified in paragraph (a) may be
4936 waived by the division ~~of Retirement~~, with regard to pension

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4937 ~~plan defined benefit program~~ contributions, and by the state
4938 board, with regard to investment plan ~~optional retirement~~
4939 ~~program~~ contributions, only if, in the opinion of the division
4940 or the board, as appropriate, exceptional circumstances beyond
4941 the employer's control prevented remittance by the prescribed
4942 due date notwithstanding the employer's good faith efforts to
4943 effect delivery. Such a waiver of delinquency may be granted an
4944 employer only once each plan ~~state fiscal~~ year.

4945 (f) If the employer submits excess employer or employee
4946 contributions, the employer shall receive a credit to be applied
4947 against future contributions owed. The employer is responsible
4948 for reimbursing the employee for any excess contributions
4949 submitted if any return of such an erroneous excess pretax
4950 contribution by the program is made within 1 year after making
4951 erroneous contributions or such other period as allowed under
4952 applicable Internal Revenue Service guidance.

4953 (g) ~~(d)~~ If contributions made by an employer on behalf of
4954 members of the investment program ~~participants in the optional~~
4955 ~~retirement program~~ are delayed in posting to member ~~participant~~
4956 accounts due to acts of God beyond the control of the division
4957 ~~of Retirement~~, the state board, or the third-party
4958 administrator, as applicable, market losses resulting from the
4959 late contributions are not payable to the members ~~participants~~.

4960 Section 36. Subsection (1) of section 175.121, Florida
4961 Statutes, is amended to read:

4962 175.121 Department of Revenue and Division of Retirement to
4963 keep accounts of deposits; disbursements.—For any municipality
4964 or special fire control district having a chapter or local law
4965 plan established pursuant to this chapter:

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4966 (1) The Department of Revenue shall keep a separate account
4967 of all moneys collected for each municipality and each special
4968 fire control district pursuant to ~~under the provisions of~~ this
4969 chapter. All moneys so collected must be transferred to the
4970 Police and Firefighters' Premium Tax Trust Fund and ~~shall be~~
4971 separately accounted for by the division. The moneys budgeted as
4972 necessary to pay the expenses of the division for the daily
4973 oversight and monitoring of the firefighters' pension plans
4974 under this chapter and for the oversight and actuarial reviews
4975 conducted under part VII of chapter 112 are annually
4976 appropriated from the following sources in the order listed:

4977 (a) Interest and investment income earned on the moneys
4978 collected for each municipality or special fire control district
4979 and deposited in the Police and Firefighters' Premium Tax Trust
4980 Fund. Interest and investment income remaining ~~thereafter~~ in the
4981 trust fund which is unexpended and otherwise unallocated by law
4982 shall revert to the General Revenue Fund on June 30 of each
4983 year.

4984 (b) Moneys collected for each municipality or special fire
4985 control district and deposited in the Police and Firefighters'
4986 Premium Tax Trust Fund. Moneys used pursuant to this paragraph
4987 shall be reimbursed during years in which there is an excess of
4988 interest and investment income under paragraph (a).

4989 Section 37. Subsection (1) of section 175.341, Florida
4990 Statutes, is amended to read:

4991 175.341 Duties of Division of Retirement; rulemaking
4992 authority; investments by State Board of Administration.—

4993 (1) The division is ~~shall be~~ responsible for the daily
4994 oversight and monitoring of the ~~for~~ actuarial soundness of the

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4995 firefighters' pension plans, whether chapter or local law plans,
4996 established under this chapter, for receiving and holding the
4997 premium tax moneys collected under this chapter, and, upon
4998 determining compliance with the provisions of this chapter, for
4999 disbursing those moneys to the firefighters' pension plans. The
5000 funds necessary to pay expenses for such administration shall be
5001 annually appropriated as provided in s. 175.121(1) ~~from the~~
5002 ~~interest and investment income earned on moneys deposited in the~~
5003 ~~trust fund.~~

5004 Section 38. Subsection (1) of section 185.10, Florida
5005 Statutes, is amended to read:

5006 185.10 Department of Revenue and Division of Retirement to
5007 keep accounts of deposits; disbursements.—For any municipality
5008 having a chapter plan or local law plan under this chapter:

5009 (1) The Department of Revenue shall keep a separate account
5010 of all moneys collected for each municipality pursuant to ~~under~~
5011 ~~the provisions of~~ this chapter. All moneys so collected must be
5012 transferred to the Police and Firefighters' Premium Tax Trust
5013 Fund and ~~shall be~~ separately accounted for by the division. The
5014 moneys budgeted as necessary to pay the expenses of the division
5015 for the daily oversight and monitoring of the police officers'
5016 retirement plans under this chapter and for the oversight and
5017 actuarial reviews conducted under part VII of chapter 112 are
5018 annually appropriated from the following sources in the order
5019 listed:

5020 (a) Interest and investment income earned on the moneys
5021 collected for each municipality or special fire control district
5022 and deposited in the Police and Firefighters' Premium Tax Trust
5023 Fund. Interest and investment income remaining ~~thereafter~~ in the

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5024 trust fund which is unexpended and otherwise unallocated by law
5025 shall revert to the General Revenue Fund on June 30 of each
5026 year.

5027 (b) Moneys collected for each municipality or special fire
5028 control district and deposited in the Police and Firefighters'
5029 Premium Tax Trust Fund. Moneys used pursuant to this paragraph
5030 shall be reimbursed during years in which there is an excess of
5031 interest and investment income under paragraph (a).

5032 Section 39. Subsection (1) of section 185.23, Florida
5033 Statutes, is amended to read:

5034 185.23 Duties of Division of Retirement; rulemaking
5035 authority; investments by State Board of Administration.—

5036 (1) The division is ~~shall be~~ responsible for the daily
5037 oversight and monitoring of the ~~for~~ actuarial soundness of the
5038 municipal police officers' retirement plans, whether chapter or
5039 local law plans, established under this chapter, for receiving
5040 and holding the premium tax moneys collected under this chapter,
5041 and, upon determining compliance with the provisions of this
5042 chapter, for disbursing those moneys to the municipal police
5043 officers' retirement plans. The funds to pay the expenses for
5044 such administration shall be annually appropriated as provided
5045 in s. 185.10(1) from the interest and investment income earned
5046 on moneys deposited in the trust fund.

5047 Section 40. Subsection (1) of section 250.22, Florida
5048 Statutes, is amended to read:

5049 250.22 Retirement.—

5050 (1) Any person who is at least 62 years of age and ~~who~~ has
5051 completed at least ~~not less than~~ 30 years of service as an
5052 officer or enlisted person in the Florida National Guard,

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5053 ~~(exclusive of time served on the inactive or retired lists,)~~ ~~on,~~
5054 ~~before, or subsequent to the passage of this section~~ is eligible
5055 upon application, whether on the active or retired list of the
5056 Florida National Guard, to be retired under the provisions of
5057 this section at the highest rank attained while serving in the
5058 Florida National Guard or the federal military forces.

5059 (a) Such person, ~~and~~ shall initially receive pay in an
5060 amount equal to one-half of the base pay as ~~is now or hereafter~~
5061 ~~may be~~ prescribed on the date of retirement in the applicable
5062 pay tables for similar grades and periods of service of
5063 personnel in the United States Army or Air Force if, ~~provided~~
5064 ~~that,~~ in computing service in the Florida National Guard,
5065 service in federal military forces during a period of war or
5066 upon order of the President of the United States, in any
5067 military duty, where the applicant has been inducted from the
5068 Florida National Guard is ~~shall be~~ included; and ~~provided~~
5069 ~~further that,~~ in computing such service performed after July 1,
5070 1955, only federally recognized service is ~~shall be~~ included.
5071 Eligibility for retirement under this section is in addition to
5072 any other retirement that such person is eligible to receive;
5073 ~~provided,~~ however, such that retirement pay ~~under this section~~
5074 shall be reduced by any amount of retirement pay, pension, or
5075 compensation which such person is eligible to receive from the
5076 Federal Government for military service. Unless otherwise
5077 provided by law, effective July 1, 2011, the retirement pay of a
5078 member or former member of the Florida National Guard may not be
5079 recomputed to reflect an increase in the rates of base pay for
5080 active members of the armed forces.

5081 (b) Effective July 1, 2012, and annually thereafter on July

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5082 1, the Division of Retirement shall adjust the retirement pay of
5083 persons eligible under this section based on s. 121.101(3).

5084 Section 41. Paragraph (a) of subsection (4) of section
5085 1012.875, Florida Statutes, is amended to read:

5086 1012.875 State Community College System Optional Retirement
5087 Program.—Each community college may implement an optional
5088 retirement program, if such program is established therefor
5089 pursuant to s. 1001.64(20), under which annuity or other
5090 contracts providing retirement and death benefits may be
5091 purchased by, and on behalf of, eligible employees who
5092 participate in the program, in accordance with s. 403(b) of the
5093 Internal Revenue Code. Except as otherwise provided herein, this
5094 retirement program, which shall be known as the State Community
5095 College System Optional Retirement Program, may be implemented
5096 and administered only by an individual community college or by a
5097 consortium of community colleges.

5098 (4) (a) Through June 30, 2011, each college must contribute
5099 on behalf of each program member ~~participant~~ an amount equal to
5100 10.43 percent of the employee's ~~participant's~~ gross monthly
5101 compensation. Effective July 1, 2011, each member shall
5102 contribute an amount equal to the employee contribution required
5103 under s. 121.71(3). Effective July 1, 2011, each employer shall
5104 contribute on behalf of each program member an amount equal to
5105 the difference between 10.43 percent of the employee's gross
5106 monthly compensation and the employee's required contribution
5107 based on the employee's gross monthly compensation. The college
5108 shall deduct an amount approved by the district board of
5109 trustees of the college to provide for the administration of the
5110 optional retirement program. Payment of this contribution must

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5111 be made ~~either~~ directly by the college or through the program
5112 administrator to the designated company contracting for payment
5113 of benefits to the program member participant.

5114 Section 42. The Legislature finds that a proper and
5115 legitimate state purpose is served when employees and retirees
5116 of the state and its political subdivisions, and the dependents,
5117 survivors, and beneficiaries of such employees and retirees, are
5118 extended the basic protections afforded by governmental
5119 retirement systems. These persons must be provided benefits that
5120 are fair and adequate and that are managed, administered, and
5121 funded in an actuarially sound manner, as required by s. 14,
5122 Article X of the State Constitution and part VII of chapter 112,
5123 Florida Statutes. Therefore, the Legislature determines and
5124 declares that this act fulfills an important state interest.

5125 Section 43. The Division of Statutory Revision is requested
5126 to rename the title of part II of chapter 121, Florida Statutes,
5127 as "Florida Retirement System Investment Plan."

5128 Section 44. (1) Effective upon this act becoming a law, the
5129 State Board of Administration and the Department of Management
5130 Services shall, as soon as practicable, request a determination
5131 letter and private letter ruling from the United States Internal
5132 Revenue Service. If the Internal Revenue Service refuses to act
5133 upon a request for a private letter ruling, the legal opinion
5134 from a qualified tax attorney or firm may be substituted for the
5135 private letter ruling.

5136 (2) If the board or the department receives notification
5137 from the United States Internal Revenue Service that this act or
5138 any portion of this act will cause the Florida Retirement
5139 System, or a portion thereof, to be disqualified for tax

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5140 purposes under the Internal Revenue Code, then that portion does
5141 not apply. Upon such notice, the state board and the department
5142 shall notify the presiding officers of the Legislature.

5143 Section 45. This act shall take effect June 30, 2011.