

By the Committee on Governmental Oversight and Accountability;
and Senator Ring

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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; placing an cap on the amount of employee
8 contributions; amending s. 121.021, F.S.; redefining
9 the terms "system," "prior service," "compensation,"
10 "average final compensation," "benefit," "vested," and
11 "payee"; 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 prohibiting such refund if an approved qualified
31 domestic relations order is filed against the member's
32 retirement account; providing that a member who
33 obtains a refund of contributions waives certain
34 rights under the Florida Retirement System; requiring
35 employee and employer contributions for members in the
36 Senior Management Service Optional Annuity Program
37 after a certain date; limiting the payment of benefits
38 before a member's termination of employment; amending
39 s. 121.071, F.S.; requiring employee and employer
40 contributions to the retirement system beginning on a
41 certain date; providing for a refund of contributions
42 under certain circumstances following termination of
43 employment; prohibiting such refund if an approved
44 qualified domestic relations order is filed against
45 the member's retirement account; providing that a
46 member who obtains a refund of contributions waives
47 certain rights under the Florida Retirement System;
48 requiring repayment plus interest of an invalid
49 refund; amending s. 121.081, F.S.; providing
50 requirements for contributions for prior service
51 performed on or after a certain date; amending s.
52 121.091, F.S.; conforming a cross-reference; delaying
53 the refund or payment of accumulated employee
54 contributions if a member's employment is terminated
55 for any reason other than death or retirement;
56 requiring repayment plus interest of an invalid
57 refund; prohibiting such refund if an approved
58 qualified domestic relations order is filed against

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59 the member's retirement account; providing that a
60 member who obtains a refund of contributions waives
61 certain rights under the Florida Retirement System;
62 conforming provisions to changes made by the act;
63 amending s. 121.1001, F.S.; conforming provisions to
64 changes made by the act; amending s. 121.121, F.S.,
65 relating to the purchase of creditable service
66 following an authorized leave of absence; requiring
67 that service credit be purchased at the employee and
68 employer contribution rates in effect during the leave
69 of absence; reducing the interest rate on benefits
70 payable under the Deferred Retirement Option Program
71 for employees hired after a certain date; amending s.
72 121.122, F.S.; providing for renewed membership in the
73 retirement system for retirees who are reemployed
74 after a certain date; specifying requirements and
75 limitations; amending s. 121.125, F.S.; conforming
76 provisions to changes made by the act; amending s.
77 121.35, F.S., relating to the optional retirement
78 program for the State University System; conforming
79 provisions to changes made by the act; requiring
80 employee and employer contributions for members
81 participating in the optional retirement program after
82 a certain date; deleting certain requirements
83 governing employer contributions to conform to changes
84 made by the act; conforming cross-references; amending
85 s. 121.355, F.S.; conforming provisions to changes
86 made by the act; amending s. 121.4501, F.S.; changing
87 the name of the Public Employee Optional Retirement

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88 Program to the Florida Retirement System Investment
89 Plan; limiting the option of enrolling in the State
90 Retirement System's defined benefit program or defined
91 contribution program to public employees employed
92 before a certain date; requiring certain public
93 employees employed on or after a certain date to
94 enroll in the investment plan; providing exceptions;
95 requiring that plan members make contributions to the
96 plan based on the employee's membership class;
97 revising definitions; deleting obsolete provisions
98 relating to the 2002 optional transfer of public
99 employees from the pension plan to the investment
100 plan; providing for past employees who reenter the
101 system; providing for contribution adjustments as a
102 result of errors or corrections; requiring an employer
103 to receive a credit for excess contributions and to
104 reimburse an employee for excess contributions,
105 subject to certain limitations; providing for a
106 retiree to retain his or her prior plan choice
107 following a return to employment; limiting certain
108 refunds of contributions which exceed the amount that
109 would have accrued had the member remained in the
110 pension plan; providing certain requirements and
111 limitations with respect to contributions; clarifying
112 that employee and employer contributions are earmarked
113 for specified purposes; providing duties of the third-
114 party administrator; providing that a member is vested
115 immediately with respect to employee contributions
116 paid by the employee; providing for the forfeiture of

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117 nonvested employer contributions and service credit
118 based on years of service; amending s. 121.4502, F.S.;
119 conforming provisions to changes made by the act;
120 amending s. 121.4503, F.S.; providing for the deposit
121 of employee contributions into the Florida Retirement
122 System Contributions Clearing Trust Fund; amending s.
123 121.571, F.S.; conforming provisions to changes made
124 by the act; providing requirements for submitting
125 employee contributions; amending s. 121.591, F.S.;
126 providing for the forfeiture of nonvested
127 accumulations upon payment of certain vested benefits;
128 providing that the distribution payment method
129 selected by the member or beneficiary is irrevocable
130 at the time of distribution; prohibiting a
131 distribution of employee contributions if a qualified
132 domestic relations order is filed against the member's
133 account; providing for the distribution of an
134 employee's contributions if the employee dies before
135 being vested; providing for the establishment of a
136 death benefits program in the Florida Retirement
137 System Trust Fund and the payment of benefits if the
138 employee dies in the line of duty; conforming
139 provisions to changes made by the act; amending ss.
140 121.5911 and 121.70, F.S.; conforming provisions to
141 changes made by the act; amending s. 121.71, F.S.;
142 providing for employee contributions to be deducted
143 from the employee's monthly salary, beginning on a
144 specified date, and treated as employer contributions
145 under certain provisions of federal law; clarifying

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

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175 receive a credit for excess contributions and to
176 reimburse an employee for excess contributions,
177 subject to certain limitations; amending s. 1012.875,
178 F.S.; requiring employee and employer contributions
179 for members of the State Community College System
180 Optional Retirement Program on a certain date;
181 conforming cross-references; providing that the act
182 fulfills an important state interest; providing a
183 directive to the Division of Statutory Revision;
184 requiring the State Board of Administration and the
185 Department of Management Services to request a private
186 letter ruling from the United States Internal Revenue
187 Service regarding this act; authorizing state
188 universities to develop and implement health benefit
189 programs for their employees if the costs of such
190 programs do not exceed current state expenditures;
191 providing effective dates.

192

193 Be It Enacted by the Legislature of the State of Florida:

194

195 Section 1. Paragraph (g) of subsection (2) of section
196 110.123, Florida Statutes, is amended to read:

197 110.123 State group insurance program.—

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

199 (g) "Retired state officer or employee" or "retiree" means
200 a any state, or state university, officer or employee who
201 retires under a state retirement system or a state optional
202 annuity or retirement program or is placed on disability
203 retirement, ~~and~~ who was insured under the state group insurance

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204 program at the time of retirement, and who begins receiving
205 retirement benefits immediately after retirement from state or
206 state university office or employment. The term also includes ~~In~~
207 ~~addition to these requirements,~~ any state officer or ~~state~~
208 employee who retires under the investment plan ~~Public Employee~~
209 ~~Optional Retirement~~ program established under part II of chapter
210 121 ~~shall be considered a "retired state officer or employee" or~~
211 ~~"retiree" as used in this section~~ if he or she:

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

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

216 Section 2. Section 112.0801, Florida Statutes, is amended
217 to read:

218 112.0801 Group insurance; participation by retired
219 employees.—

220 ~~(1)~~ Any state agency, county, municipality, special
221 district, community college, or district school board that ~~which~~
222 provides life, health, accident, hospitalization, or annuity
223 insurance, or all of any kinds of such insurance, for its
224 officers and employees and their dependents upon a group
225 insurance plan or self-insurance plan shall allow all former
226 personnel who ~~have~~ retired before ~~prior to~~ October 1, 1987, as
227 well as those who retire on or after such date, and their
228 eligible dependents, the option of continuing to participate in
229 the ~~such~~ group insurance plan or self-insurance plan. Retirees
230 and their eligible dependents shall be offered the same health
231 and hospitalization insurance coverage as is offered to active
232 employees at a premium cost of no more than the premium cost

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233 applicable to active employees. For ~~the~~ retired employees and
234 their eligible dependents, the cost of ~~any such~~ continued
235 participation ~~in any type of plan or any of the cost thereof~~ may
236 be paid by the employer or by the retired employees. To
237 determine health and hospitalization plan costs, the employer
238 shall commingle the claims experience of the retiree group with
239 the claims experience of the active employees; and, for other
240 types of coverage, the employer may commingle the claims
241 experience of the retiree group with the claims experience of
242 active employees. Retirees covered under Medicare may be
243 experience-rated separately from the retirees not covered by
244 Medicare and from active employees if, ~~provided that~~ the total
245 premium does not exceed that of the active group and coverage is
246 basically the same as for the active group.

247 ~~(2)~~ For purposes of this section, the term "retiree" has
248 the same meaning as in s. 110.123(2) ~~means any officer or~~
249 ~~employee who retires under a state retirement system or a state~~
250 ~~optional annuity or retirement program or is placed on~~
251 ~~disability retirement and who begins receiving retirement~~
252 ~~benefits immediately after retirement from employment. In~~
253 ~~addition to these requirements, any officer or employee who~~
254 ~~retires under the Public Employee Optional Retirement Program~~
255 ~~established under part II of chapter 121 shall be considered a~~
256 ~~"retired officer or employee" or "retiree" as used in this~~
257 ~~section if he or she:~~

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

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

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

265 112.363 Retiree health insurance subsidy.—

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

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

272 1. For a member participant of the investment plan Public
273 Employee Optional Retirement program established under part II
274 of chapter 121, the member participant meets the age or service
275 requirements to qualify for normal retirement as set forth in s.
276 121.021(29) and meets the definition of retiree in s.
277 121.4501(2).

278 2. For a member of the pension plan Florida Retirement
279 System defined benefit program, or any employee who maintains
280 creditable service under ~~both~~ the pension plan and the
281 investment plan defined benefit program and the Public Employee
282 Optional Retirement program, the member begins drawing
283 retirement benefits from the pension plan defined benefit
284 program of the Florida Retirement System.

285 (c) ~~1.~~ Effective July 1, 2001, any person retiring on or
286 after that ~~such~~ date as a member of the Florida Retirement
287 System, including a member any participant of the investment
288 plan defined contribution program administered pursuant to part
289 II of chapter 121, must have satisfied the vesting requirements
290 for his or her membership class under the pension plan Florida

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291 ~~Retirement System defined benefit program~~ as administered under
292 part I of chapter 121. However,

293 ~~2. Notwithstanding the provisions of subparagraph 1.,~~ a
294 person retiring due to disability must ~~either~~ qualify for a
295 regular or in-line-of-duty disability benefit as provided in s.
296 121.091(4) or qualify for a disability benefit under a
297 disability plan established under part II of chapter 121, as
298 appropriate.

299 (3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

300 (e)1. Beginning July 1, 2001, each eligible retiree of the
301 pension plan ~~defined benefit program~~ of the Florida Retirement
302 System, or, if the retiree is deceased, his or her beneficiary
303 who is receiving a monthly benefit from such retiree's account
304 and who is a spouse, or a person who meets the definition of
305 joint annuitant in s. 121.021~~(28)~~, shall receive a monthly
306 retiree health insurance subsidy payment equal to the number of
307 years of creditable service, as defined in s. 121.021~~(17)~~,
308 completed at the time of retirement multiplied by \$5; however,
309 an ~~no~~ eligible retiree or beneficiary may not receive a subsidy
310 payment of more than \$150 or less than \$30. If there are
311 multiple beneficiaries, the total payment may ~~must~~ not be
312 greater than the payment to which the retiree was entitled. The
313 health insurance subsidy amount payable to any person receiving
314 the retiree health insurance subsidy payment on July 1, 2001,
315 may ~~shall~~ not be reduced solely by operation of this
316 subparagraph.

317 2. Beginning July 1, 2002, each eligible member participant
318 of the investment plan under part II of chapter 121 ~~Public~~
319 ~~Employee Optional Retirement program of the Florida Retirement~~

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320 ~~System~~ who has met the requirements of this section, or, if the
 321 member participant is deceased, his or her spouse who is the
 322 member's participant's designated beneficiary, shall receive a
 323 monthly retiree health insurance subsidy payment equal to the
 324 number of years of creditable service, as provided in this
 325 subparagraph, completed at the time of retirement, multiplied by
 326 \$5; however, an ~~no~~ eligible retiree or beneficiary may not
 327 receive a subsidy payment of more than \$150 or less than \$30.
 328 For purposes of determining a member's participant's creditable
 329 service used to calculate the health insurance subsidy, the
 330 member's a participant's years of service credit or fraction
 331 thereof must ~~shall~~ be based on the member's participant's work
 332 year as defined in s. 121.021(54). Credit must ~~shall~~ be awarded
 333 for a full work year if ~~whenever~~ health insurance subsidy
 334 contributions have been made ~~as required by law~~ for each month
 335 in the member's participant's work year. In addition, all years
 336 of creditable service retained under the Florida Retirement
 337 System pension plan must ~~defined benefit program~~ shall be
 338 included as creditable service for purposes of this section.
 339 Notwithstanding any other provision in this section ~~to the~~
 340 ~~contrary~~, the spouse at the time of death is ~~shall be~~ the
 341 member's participant's beneficiary unless such member
 342 participant has designated a different beneficiary subsequent to
 343 the member's participant's most recent marriage.

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

346 112.65 Limitation of benefits.—

347 (1) ESTABLISHMENT OF PROGRAM.—The normal retirement benefit
 348 or pension payable to a retiree who becomes a member of a any

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349 retirement system or plan and who has not previously
350 participated in such plan, on or after January 1, 1980, may
351 ~~shall~~ not exceed 100 percent of his or her average final
352 compensation. However, ~~nothing contained in this section~~ does
353 not shall apply to supplemental retirement benefits or to
354 pension increases attributable to cost-of-living increases or
355 adjustments. For the purposes of this section, benefits accruing
356 in individual member participant accounts established under the
357 investment plan ~~Public Employee Optional Retirement program~~
358 established in part II of chapter 121 are considered
359 supplemental benefits. As used in this section, the term
360 "average final compensation" means the average of the member's
361 earnings over a period of time which the governmental entity
362 establishes ~~has established~~ by statute, charter, or ordinance.

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

365 121.011 Florida Retirement System.—

366 (3) PRESERVATION OF RIGHTS.—

367 (h) Effective July 1, 2011, the retirement system shall
368 require employee and employer contributions as provided in s.
369 121.071 and part III of this chapter. Notwithstanding any other
370 provision of law, the amount of employee retirement
371 contributions for any member of the Regular Class or Special
372 Risk Class may not exceed 2 percent of such member's annual
373 compensation and the amount of employee retirement contributions
374 for any member of the Senior Management Service Class or Elected
375 Officers Class may not exceed 4 percent of such member's annual
376 compensation.

377 Section 6. Subsection (3), paragraph (a) of subsection

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378 (19), paragraphs (a) and (b) of subsection (22), and subsections
379 (24), (45), (55), and (59) of section 121.021, Florida Statutes,
380 are amended, and present paragraphs (c) and (d) of subsection
381 (22) of that section are redesignated as paragraphs (d) and (e),
382 respectively, to read:

383 121.021 Definitions.—The following words and phrases as
384 used in this chapter have the respective meanings set forth
385 unless a different meaning is plainly required by the context:

386 (3) “Florida Retirement System” or “system” means the
387 general retirement system established by this chapter, ~~to be~~
388 ~~known and cited as the “Florida Retirement System,”~~ including,
389 but not limited to, the defined benefit ~~retirement program or~~
390 pension plan administered under ~~the provisions of part I of this~~
391 part chapter and the defined contribution ~~retirement program or~~
392 investment plan ~~known as the Public Employee Optional Retirement~~
393 ~~Program and~~ administered under ~~the provisions of part II of this~~
394 chapter.

395 (19) “Prior service” ~~under this chapter~~ means:

396 (a) Service for which the member had credit under one of
397 the existing systems and received a refund of his or her
398 contributions upon termination of employment. Prior service
399 ~~shall also include~~ include ~~that service between December 1,~~
400 ~~1970, and the date the system becomes noncontributory~~ for which
401 the member had credit under the Florida Retirement System and
402 received a refund of his or her contributions upon termination
403 of employment.

404 (22) “Compensation” means the monthly salary paid a member
405 by his or her employer for work performed arising from that
406 employment.

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

409 1. Overtime payments paid from a salary fund.

410 2. Accumulated annual leave payments.

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

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

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

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

419 d. The payments are paid at least annually.

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

423 5. Payments made in lieu of a permanent increase in the
424 base rate of pay, whether made annually or in 12 or 26 equal
425 payments within a 12-month period, if ~~when~~ the member's base pay
426 is at the maximum of his or her pay range. If ~~When~~ a portion of
427 a member's annual increase raises his or her pay range and the
428 excess is paid as a lump sum payment, the ~~such~~ lump sum payment
429 is considered ~~shall be~~ compensation for retirement purposes.

430 (b) For service earned on or after July 1, 2011,
431 compensation includes:

432 1. Overtime payments paid from a salary fund, not to exceed
433 300 hours.

434 2. Payments in addition to the employee's base rate of pay
435 if the following apply:

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- 436 a. The payments are paid according to a formal written
437 policy that applies to all eligible employees equally;
438 b. The policy provides that payments shall commence by 11th
439 year of employment; and
440 c. The payments are paid at least annually.
441 3. Amounts withheld for tax sheltered annuities, deferred
442 compensation programs, or any other type of salary reduction
443 plan authorized under the Internal Revenue Code.
444 4. Payments made in lieu of a permanent increase in the
445 base rate of pay, whether made annually or in 12 or 26 equal
446 payments within a 12-month period, if the member's base pay is
447 at the maximum of his or her pay range. If a portion of a
448 member's annual increase raises his or her pay range and the
449 excess is paid as a lump sum payment, such lump sum payment is
450 compensation for retirement purposes.
451 ~~(c) (b) Under no circumstances shall~~ Compensation for a
452 member participating in the pension plan ~~defined benefit~~
453 ~~retirement program~~ or the investment plan ~~Public Employee~~
454 ~~Optional Retirement Program~~ of the Florida Retirement System may
455 not include:
456 1. Fees paid professional persons for special or particular
457 services or ~~include~~ salary payments made from a faculty practice
458 plan authorized by the Board of Governors of the State
459 University System for eligible clinical faculty at a college in
460 a state university that has a faculty practice plan; or
461 2. Any bonuses or other payments prohibited from inclusion
462 in the member's average final compensation ~~and defined in~~
463 ~~subsection (47).~~
464 (24) "Average final compensation" means the average of the

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465 5 highest fiscal years of compensation for creditable service
466 prior to retirement, termination, or death. For in-line-of-duty
467 disability benefits, if less than 5 years of creditable service
468 have been completed, the term "~~average final compensation~~" means
469 the average annual compensation of the total number of years of
470 creditable service. Each year used to calculate ~~in the~~
471 ~~calculation of~~ average final compensation commences ~~shall~~
472 ~~commence~~ on July 1.

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

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

475 a.1. ~~Accumulated annual leave payments, not to exceed 500~~
476 hours; and

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

479 2. ~~(b)~~ The average final compensation does ~~shall~~ not
480 include:

481 a.1. ~~Compensation paid to professional persons for special~~
482 or particular services;

483 b.2. ~~Payments for accumulated sick leave made due to~~
484 retirement or termination;

485 c.3. ~~Payments for accumulated annual leave in excess of 500~~
486 hours;

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

488 e.5. ~~Third-party~~ Third party payments made on and after
489 July 1, 1990; or

490 f.6. ~~Fringe benefits, such as (for example, automobile~~
491 allowances or housing allowances).

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

493 1. The average final compensation includes all payments

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494 defined as compensation under this section.

495 2. The average final compensation does not include:

496 a. Compensation paid to professional persons for special or
497 particular services;

498 b. Payments for accumulated sick leave made due to
499 retirement or termination;

500 c. Payments for accumulated annual leave;

501 (d) Overtime payments paid from a salary fund in excess of
502 300 hours;

503 e. Bonuses;

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

505 g. Fringe benefits, such as automobile allowances or
506 housing allowances.

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

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

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

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523 2. Any member not employed in a regularly established
524 position on July 1, 2001, shall be deemed vested upon completion
525 of 6 years of creditable service ~~if, provided that~~ such member
526 is employed in a covered position for at least 1 work year after
527 July 1, 2001. However, a ~~no~~ member may not ~~shall~~ be required to
528 complete more years of creditable service than would have been
529 required for that member to vest under retirement laws in effect
530 before July 1, 2001.

531 (b) Effective July 1, 2011, an 8-year vesting requirement
532 shall be implemented for the Florida Retirement System's pension
533 plan.

534 1. Any member employed in a regularly established position
535 on July 1, 2011, who completes or has completed a total of 8
536 years of creditable service is vested.

537 2. Any member not employed in a regularly established
538 position on July 1, 2011, shall be deemed vested upon completion
539 of 8 years of creditable service if such member is employed in a
540 covered position for at least 1 work year after July 1, 2011.
541 However, a member may not be required to complete more years of
542 creditable service than would have been required for that member
543 to vest under retirement laws in effect before July 1, 2011.

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

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

550 Section 7. Paragraphs (b), (c), and (d) of subsection (2)
551 of section 121.051, Florida Statutes, are amended, present

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552 paragraphs (e) and (f) of that subsection are redesignated as
553 subsections (f) and (g), respectively, a new paragraph (e) is
554 added to that subsection, and subsection (3) of that section is
555 amended, to read:

556 121.051 Participation in the system.—

557 (2) OPTIONAL PARTICIPATION.—

558 (b)1. The governing body of any municipality, metropolitan
559 planning organization, or special district in the state may
560 elect to participate in the Florida Retirement System upon
561 proper application to the administrator and may cover all ~~or any~~
562 of its units as approved by the Secretary of Health and Human
563 Services and the administrator. The department shall adopt rules
564 establishing procedures ~~provisions~~ for the submission of
565 documents necessary for such application. Before ~~Prior to~~ being
566 approved for participation ~~in the Florida Retirement System~~, the
567 governing body of a ~~any such~~ municipality, metropolitan planning
568 organization, or special district that has a local retirement
569 system must ~~shall~~ submit to the administrator a certified
570 financial statement showing the condition of the local
571 retirement system ~~as of a date~~ within 3 months before ~~prior to~~
572 the proposed effective date of membership in the ~~Florida~~
573 ~~Retirement~~ system. The statement must be certified by a
574 recognized accounting firm that is independent of the local
575 retirement system. All required documents ~~necessary for~~
576 ~~extending Florida Retirement System coverage~~ must be received by
577 the department for consideration at least 15 days before ~~prior~~
578 ~~to~~ the proposed effective date of coverage. If the governing
579 body ~~municipality, metropolitan planning organization, or~~
580 ~~special district~~ does not comply with this requirement, the

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581 department may require that the effective date of coverage be
582 changed.

583 2. A municipality ~~Any city~~, metropolitan planning
584 organization, or special district that has an existing
585 retirement system covering the employees in the units that are
586 to be brought under the Florida Retirement System may
587 participate only after holding a referendum in which all
588 employees in the affected units have the right to participate.
589 Only those employees electing coverage under the Florida
590 Retirement System by affirmative vote in the said referendum are
591 ~~shall be~~ eligible for coverage under this chapter, and those not
592 participating or electing not to be covered by the Florida
593 Retirement System shall remain in their present systems and are
594 ~~shall not be~~ eligible for coverage under this chapter. After the
595 referendum is held, all future employees are ~~shall be~~ compulsory
596 members of the Florida Retirement System.

597 3. At the time of joining the Florida Retirement System,
598 the governing body of a municipality ~~any city~~, metropolitan
599 planning organization, or special district complying with
600 subparagraph 1. may elect to provide, or not provide, benefits
601 based on past service of officers and employees as described in
602 s. 121.081(1). However, if such employer elects to provide past
603 service benefits, such benefits must be provided for all
604 officers and employees of its covered group.

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

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610 5. Subject to ~~the conditions set forth in~~ subparagraph 6.,
611 the governing body of a any hospital licensed under chapter 395
612 which is governed by the board of a special district as defined
613 in s. 189.403~~(1)~~ or by the board of trustees of a public health
614 trust created under s. 154.07, hereinafter referred to as
615 "hospital district," and which participates in the Florida
616 Retirement System, may elect to cease participation in the
617 system with regard to future employees in accordance with the
618 following ~~procedure~~:

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

624 b. From 7 to 15 days before such hearing, notice of intent
625 to withdraw, specifying the time and place of the hearing, must
626 be provided in writing to employees of the hospital district
627 proposing partial withdrawal and must be published in a
628 newspaper of general circulation in the area affected, as
629 provided by ss. 50.011-50.031. Proof of publication must ~~of such~~
630 ~~notice shall~~ be submitted to the department ~~of Management~~
631 ~~Services~~.

632 c. The governing body of a any hospital district seeking to
633 partially withdraw from the system must, before such hearing,
634 have an actuarial report prepared and certified by an enrolled
635 actuary, as defined in s. 112.625~~(3)~~, illustrating the cost to
636 the hospital district of providing, through the retirement plan
637 that the hospital district is to adopt, benefits for new
638 employees comparable to those provided under the ~~Florida~~

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639 Retirement system.

640 d. Upon meeting all applicable requirements of this
641 subparagraph, and subject to ~~the conditions set forth in~~
642 subparagraph 6., partial withdrawal from the system and adoption
643 of the alternative retirement plan may be accomplished by
644 resolution ~~duly~~ adopted by the hospital district board. The
645 hospital district board must provide written notice of such
646 withdrawal to the Division of Retirement by mailing a copy of
647 the resolution to the division, postmarked by ~~no later than~~
648 December 15, 1995. The withdrawal shall take effect January 1,
649 1996.

650 6. Following the adoption of a resolution under sub-
651 subparagraph 5.d., all employees of the withdrawing hospital
652 district who were members of ~~participants in~~ the Florida
653 Retirement system before ~~prior to~~ January 1, 1996, shall remain
654 as members of ~~participants in~~ the system for as long as they are
655 employees of the hospital district, and all rights, duties, and
656 obligations between the hospital district, the system, and the
657 employees ~~shall~~ remain in full force and effect. Any employee
658 who is hired or appointed on or after January 1, 1996, may not
659 participate in the ~~Florida Retirement~~ system, and the
660 withdrawing hospital district has ~~shall have~~ no obligation to
661 the system with respect to such employees.

662 (c) Employees of public community colleges or charter
663 technical career centers sponsored by public community colleges,
664 designated in s. 1000.21(3), who are members of the Regular
665 Class of the Florida Retirement System and who comply with the
666 criteria set forth in this paragraph and s. 1012.875 may, in
667 lieu of participating in the Florida Retirement System, elect to

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668 withdraw from the system altogether and participate in the State
669 Community College System Optional Retirement Program provided by
670 the employing agency under s. 1012.875.

671 1. Through June 30, 2001, the cost to the employer for a
672 benefit under the optional retirement program ~~such annuity~~
673 equals the normal cost portion of the employer retirement
674 contribution which would be required if the employee were a
675 member of the Regular Class pension plan ~~defined benefit~~
676 ~~program~~, plus the portion of the contribution rate required by
677 s. 112.363(8) which would otherwise be assigned to the Retiree
678 Health Insurance Subsidy Trust Fund. Effective July 1, 2001,
679 each employer shall contribute on behalf of each member of
680 ~~participant in~~ the optional program an amount equal to 10.43
681 percent of the employee's ~~participant's~~ gross monthly
682 compensation. The employer shall deduct an amount for the
683 administration of the program. The employer shall contribute an
684 additional amount to the Florida Retirement System Trust Fund
685 equal to the unfunded actuarial accrued liability portion of the
686 Regular Class contribution rate.

687 2. The decision to participate in the ~~an~~ optional
688 retirement program is irrevocable as long as the employee holds
689 a position eligible for participation, except as provided in
690 subparagraph 3. Any service creditable under the Florida
691 Retirement System is retained after the member withdraws from
692 the system; however, additional service credit in the system may
693 not be earned while a member of the optional retirement program.

694 3. An employee who has elected to participate in the
695 optional retirement program shall have one opportunity, at the
696 employee's discretion, to transfer from the optional retirement

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697 program to the ~~defined benefit program of the Florida Retirement~~
698 System's pension plan System or to the investment plan
699 established under part II of this chapter Public Employee
700 Optional Retirement Program, subject to the terms of the
701 applicable optional retirement program contracts.

702 a. If the employee chooses to move to the investment plan
703 ~~Public Employee Optional Retirement~~ program, any contributions,
704 interest, and earnings creditable to the employee under the
705 ~~State Community College System~~ optional retirement program are
706 retained by the employee in the ~~State Community College System~~
707 optional retirement program, and the applicable provisions of s.
708 121.4501(4) govern the election.

709 b. If the employee chooses to move to the pension plan
710 ~~defined benefit program of the Florida Retirement System~~, the
711 employee shall receive service credit equal to his or her years
712 of service under the ~~State Community College System~~ optional
713 retirement program.

714 (I) The cost for such credit is the amount representing the
715 present value of the employee's accumulated benefit obligation
716 for the affected period of service. The cost shall be calculated
717 as if the benefit commencement occurs on the first date the
718 employee becomes eligible for unreduced benefits, using the
719 discount rate and other relevant actuarial assumptions that were
720 used to value the pension ~~Florida Retirement System defined~~
721 ~~benefit~~ plan liabilities in the most recent actuarial valuation.
722 The calculation must include any service already maintained
723 under the pension ~~defined benefit~~ plan in addition to the years
724 under the ~~State Community College System~~ optional retirement
725 program. The present value of any service already maintained

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726 must be applied as a credit to total cost resulting from the
727 calculation. The division shall ensure that the transfer sum is
728 prepared using a formula and methodology certified by an
729 enrolled actuary.

730 (II) The employee must transfer from his or her ~~State~~
731 ~~Community College System~~ optional retirement program account and
732 from other employee moneys as necessary, a sum representing the
733 present value of the employee's accumulated benefit obligation
734 immediately following the time of such movement, determined
735 assuming that attained service equals the sum of service in the
736 pension plan ~~defined benefit program~~ and service in the ~~State~~
737 ~~Community College System~~ optional retirement program.

738 4. Participation in the optional retirement program is
739 limited to employees who satisfy the following eligibility
740 criteria:

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

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

748 (I) Instructional; or

749 (II) Executive Management, Instructional Management, or
750 Institutional Management and the, ~~if a~~ community college
751 determines that recruiting to fill a vacancy in the position is
752 to be conducted in the national or regional market, and the
753 duties and responsibilities of the position include the
754 formulation, interpretation, or implementation of policies, or

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755 the performance of functions that are unique or specialized
756 within higher education and that frequently support the mission
757 of the community college.

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

761 5. Members of Participants ~~in~~ the program are subject to
762 the same reemployment limitations, renewed membership
763 provisions, and forfeiture provisions ~~as are~~ applicable to
764 regular members of the Florida Retirement System under ss.
765 121.091(9), 121.122, and 121.091(5), respectively. A member
766 ~~participant~~ who receives a program distribution funded by
767 employer contributions is ~~shall be~~ deemed to be retired from a
768 state-administered retirement system if the retiree ~~participant~~
769 is subsequently employed with an employer that participates in
770 the Florida Retirement System.

771 6. Eligible community college employees are compulsory
772 members of the Florida Retirement System until, pursuant to s.
773 1012.875, a written election to withdraw from the system and
774 participate in the ~~State Community College System~~ optional
775 retirement program is filed with the program administrator and
776 received by the division.

777 a. A community college employee whose program eligibility
778 results from initial employment shall ~~must~~ be enrolled in the
779 ~~State Community College System~~ optional retirement program
780 retroactive to the first day of eligible employment. The
781 employer retirement contributions paid through the month of the
782 employee plan change shall be transferred to the community
783 college to the employee's optional program account, and,

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784 effective the first day of the next month, the employer shall
785 pay the applicable contributions based upon subparagraph 1.

786 b. A community college employee whose program eligibility
787 is due to the subsequent designation of the employee's position
788 as one of those specified in subparagraph 4., or due to the
789 employee's appointment, promotion, transfer, or reclassification
790 to a position specified in subparagraph 4., must be enrolled in
791 the program on the first day of the first full calendar month
792 that such change in status becomes effective. The employer
793 retirement contributions paid from the effective date through
794 the month of the employee plan change must be transferred to the
795 community college to the employee's optional program account,
796 and, effective the first day of the next month, the employer
797 shall pay the applicable contributions based upon subparagraph
798 1.

799 7. Effective July 1, 2003, through December 31, 2008, any
800 member participant of the ~~State Community College System~~
801 optional retirement program who has service credit in the
802 pension ~~defined benefit~~ plan of the Florida Retirement System
803 for the period between his or her first eligibility to transfer
804 from the pension ~~defined benefit~~ plan to the optional retirement
805 program and the actual date of transfer may, during employment,
806 transfer to the optional retirement program a sum representing
807 the present value of the accumulated benefit obligation under
808 the pension plan ~~defined benefit retirement program~~ for the
809 period of service credit. Upon transfer, all service credit
810 previously earned under the pension plan ~~defined benefit program~~
811 ~~of the Florida Retirement System~~ during this period is nullified
812 for purposes of entitlement to a future benefit under the

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813 ~~pension plan defined benefit program of the Florida Retirement~~
814 ~~System.~~

815 (d) The governing body of a charter school or a charter
816 technical career center may elect to participate in the system
817 upon proper application to the administrator and shall cover its
818 units as approved by the Secretary of Health and Human Services
819 and the administrator. At the time of joining the Florida
820 Retirement System, but before July 1, 2011, the governing body
821 of the charter school may elect to provide, or not provide,
822 benefits based on the past service of officers and employees as
823 described in s. 121.081(1). Once this election is made and
824 approved, it may not be revoked, and all present officers and
825 employees selecting coverage under this chapter and all future
826 officers and employees shall be compulsory members of the
827 Florida Retirement System.

828 (e) All eligible employees initially enrolled on or after
829 July 1, 2011, except those who are eligible to and elect to
830 enroll in an optional retirement program established under s.
831 121.055(6), s. 121.35, or s. 1012.875, become compulsory members
832 of the investment plan and membership in the pension plan is not
833 permitted. Employees initially enrolled on or after July 1,
834 2011, may not use the election opportunity specified in s.
835 121.4501(4)(e).

836 (3) SOCIAL SECURITY COVERAGE.—Social security coverage
837 shall be provided for all officers and employees who become
838 members under ~~the provisions of~~ subsection (1) or subsection
839 (2). Any modification of the present agreement with the Social
840 Security Administration, or referendum required under the Social
841 Security Act, for the purpose of providing social security

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842 coverage for any member shall be requested by the state agency
843 in compliance with the applicable provisions of the Social
844 Security Act governing such coverage. However, retroactive
845 social security coverage for service ~~prior to December 1, 1970,~~
846 with the employer before December 1, 1970, may ~~shall~~ not be
847 provided for a a ~~any~~ member who was not covered under the
848 agreement as of November 30, 1970.

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

852 121.0515 Special risk membership.—

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

859 (b) Contributions for upgrading the additional special risk
860 credit are ~~pursuant to this subsection shall be~~ equal to the
861 difference in the employer and, if applicable, employee
862 contributions paid and the special risk percentage rate of gross
863 salary in effect at the time of purchase for the period being
864 claimed, plus interest thereon at the rate of 4 percent a year
865 compounded annually from the date of such service until July 1,
866 1975, and 6.5 percent a year thereafter until the date of
867 payment. ~~This~~ Past service may be purchased by the member or by
868 the employer on behalf of the member.

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

870 (a) A special risk member who is moved or reassigned to a

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871 nonspecial risk law enforcement, firefighting, correctional, or
872 emergency medical care administrative support position within
873 ~~with~~ the same agency, or who is subsequently employed in such a
874 position with any law enforcement, firefighting, correctional,
875 or emergency medical care agency under the Florida Retirement
876 System, shall participate in the Special Risk Administrative
877 Support Class and ~~shall~~ earn credit for such service at the same
878 percentage rate as that earned by a regular member.

879 Notwithstanding ~~the provisions of~~ subsection (4), service in
880 ~~such~~ an administrative support position ~~shall~~, for purposes of
881 s. 121.091, applies ~~apply~~ toward satisfaction of the special
882 risk normal retirement date, as defined in s. 121.021~~(29)(b)~~ if,
883 ~~provided that~~, while in such position, the member remains
884 certified as a law enforcement officer, firefighter,
885 correctional officer, emergency medical technician, or
886 paramedic; remains subject to reassignment at any time to a
887 position qualifying for special risk membership; and completes
888 an aggregate of 6 or more years of service as a designated
889 special risk member before ~~prior to~~ retirement.

890 (9) CREDIT FOR UPGRADED SERVICE.—

891 (c) Any member of the Special Risk Class who has earned
892 creditable service in another membership class of the Florida
893 Retirement System in a position with the Department of Law
894 Enforcement or the Division of State Fire Marshal and became
895 covered by the Special Risk Class as described in paragraph
896 (2) (i), or with a local government law enforcement agency or
897 medical examiner's office and became covered by the Special Risk
898 Class as described in paragraph (2) (j), which service is within
899 the purview of the Special Risk Class, and is employed in such

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900 position on or after July 1, 2008, may purchase additional
 901 retirement credit to upgrade such service to Special Risk Class
 902 service, to the extent of the percentages of the member's
 903 average final compensation provided in s. 121.091(1)(a)2. The
 904 cost for such credit must ~~shall~~ be an amount representing the
 905 actuarial accrued liability for the difference in accrual value
 906 during the affected period of service. The cost shall be
 907 calculated using the discount rate and other relevant actuarial
 908 assumptions that were used to value the Florida Retirement
 909 System's pension ~~System defined benefit~~ plan liabilities in the
 910 most recent actuarial valuation. The Division of Retirement
 911 shall ensure that the transfer sum is prepared using a formula
 912 and methodology certified by an enrolled actuary. The cost must
 913 be paid immediately upon notification by the division. The local
 914 government employer may purchase the upgraded service credit on
 915 behalf of the member if the member has been employed by that
 916 employer for at least 3 years.

917 Section 9. Paragraphs (a) and (d) of subsection (4) and
 918 paragraph (b) of subsection (7) of section 121.052, Florida
 919 Statutes, are amended, present paragraph (c) of subsection (7)
 920 of that section is redesignated as paragraph (d), a new
 921 paragraph (c) is added to that subsection, and subsection (8) of
 922 that section is amended, to read:

923 121.052 Membership class of elected officers.—

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

926 (a) An ~~Any~~ ~~duly~~ elected officer whose term of office was
 927 shortened by legislative or judicial apportionment pursuant to
 928 ~~the provisions of~~ s. 16, Art. III of the State Constitution may,

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929 after the term of office to which he or she was elected is
930 completed, pay into the Florida Retirement System Trust Fund the
931 amount of contributions that would have been made by the officer
932 or the officer's employer on his or her behalf, plus 4 percent
933 interest compounded annually from the date he or she left office
934 until July 1, 1975, and 6.5 percent interest compounded annually
935 thereafter, and may receive service credit for the length of
936 time the officer would have served if such term had not been
937 shortened by apportionment.

938 (d)1. Any justice or judge, or any retired justice or judge
939 who retired before July 1, 1993, who has attained the age of 70
940 years and who is prevented under s. 8, Art. V of the State
941 Constitution from completing his or her term of office because
942 of age may elect to purchase credit for all or a portion of the
943 months he or she would have served during the remainder of the
944 term of office; however, ~~but~~ he or she may claim those months
945 only after the date the service would have occurred. The justice
946 or judge must pay into the Florida Retirement System Trust Fund
947 the amount of contributions that would have been made by the
948 employer on his or her behalf for the period of time being
949 claimed, plus 6.5 percent interest thereon compounded each June
950 30 from the date he or she left office, in order to receive
951 service credit in this class for the period of time being
952 claimed. After the date the service would have occurred, and
953 upon payment of the required contributions, the retirement
954 benefit of a retired justice or judge shall ~~will~~ be adjusted
955 prospectively to include the ~~this~~ additional creditable service;
956 however, such adjustment may be made only once.

957 2. Any justice or judge who does not seek election to a

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958 subsequent term of office because he or she would be prevented
959 under s. 8, Art. V of the State Constitution from completing
960 such term of office upon attaining the age of 70 years may elect
961 to purchase service credit for service as a temporary judge as
962 assigned by the court if the temporary assignment ~~follows~~
963 immediately follows the last full term of office served and the
964 purchase is limited to the number of months of service needed to
965 vest retirement benefits. To receive retirement credit for ~~such~~
966 temporary service beyond termination, the justice or judge must
967 pay into the Florida Retirement System Trust Fund the amount of
968 contributions that would have been made by the justice or judge
969 and the employer on his or her behalf had he or she continued in
970 office for the period of time being claimed, plus 6.5 percent
971 interest thereon compounded each June 30 from the date he or she
972 left office.

973 (7) CONTRIBUTIONS.—

974 (b) The employer paying the salary of a member of the
975 Elected Officers' Class shall contribute an amount as specified
976 in this subsection or s. 121.71, as appropriate, which shall
977 constitute the ~~entire~~ employer retirement contribution with
978 respect to such member. The employer shall also withhold one-
979 half of the entire contribution of the member required for
980 social security coverage. Effective July 1, 2011, members of the
981 Elected Officers' Class shall pay retirement contributions as
982 specified in s. 121.71.

983 (c) If a member of the Elected Officers' Class ceases to
984 fill an office covered by this class for 3 calendar months for
985 any reason other than retirement and has not been employed in
986 any capacity with any participating employer for 3 calendar

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987 months, the member is entitled to receive a refund of all
 988 contributions he or she made to the pension plan, subject to the
 989 restrictions otherwise provided in this chapter. Partial refunds
 990 are not permitted. The refund may not include any interest
 991 earnings on contributions to the pension plan. Employer
 992 contributions made on behalf of the member are not refundable. A
 993 member may not receive a refund of employee contributions if a
 994 pending or an approved qualified domestic relations order is
 995 filed against the member's retirement account. By obtaining a
 996 refund of contributions, a member waives all rights under the
 997 Florida Retirement System, including the health insurance
 998 subsidy under this subsection, to the service credit represented
 999 by the refunded contributions, except the right to purchase
 1000 prior service credit in accordance with s. 121.081(2).

1001 (8) NORMAL RETIREMENT DATE; VESTING REQUIREMENT.—A member
 1002 of the Elected Officers' Class has ~~shall have~~ the same normal
 1003 retirement date as defined in s. 121.021~~(29)~~ for a member of the
 1004 regular class of the Florida Retirement System. A ~~Any~~ public
 1005 service commissioner who was removed from the Elected State
 1006 Officers' Class on July 1, 1979, after attaining at least 8
 1007 years of creditable service in that class is ~~shall be~~ considered
 1008 to have reached the normal retirement date upon attaining the
 1009 required age as provided ~~62 as required~~ in s. 121.021(29)~~(a)~~.

1010 Section 10. Paragraph (a) of subsection (7) of section
 1011 121.053, Florida Statutes, is amended to read:

1012 121.053 Participation in the Elected Officers' Class for
 1013 retired members.—

1014 (7) A member who is elected or appointed to an elective
 1015 office and who is participating in the Deferred Retirement

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1016 Option Program is not subject to termination as defined in s.
1017 121.021, or reemployment limitations as provided in s.
1018 121.091(9), until the end of his or her current term of office
1019 or, if the officer is consecutively elected or reelected to an
1020 elective office eligible for coverage under the Florida
1021 Retirement System, until he or she no longer holds an elective
1022 office, as follows:

1023 (a) At the end of the 60-month DROP period:

1024 1. The officer's DROP account may not accrue additional
1025 monthly benefits, but does continue to earn interest as provided
1026 in s. 121.091(13). However, an officer whose DROP participation
1027 begins on or after July 1, 2010, may not continue to earn such
1028 interest.

1029 2. Retirement contributions are not required of the officer
1030 or the employer of the elected officer and additional retirement
1031 credit may not be earned under the Florida Retirement System.

1032 Section 11. Paragraphs (b) and (j) of subsection (1),
1033 paragraph (b) of subsection (3), and paragraphs (c), (d), and
1034 (e) of subsection (6) of section 121.055, Florida Statutes, are
1035 amended, present paragraph (c) of subsection (3) of that section
1036 is redesignated as paragraph (d), and a new paragraph (c) is
1037 added to that subsection, to read:

1038 121.055 Senior Management Service Class.—There is hereby
1039 established a separate class of membership within the Florida
1040 Retirement System to be known as the "Senior Management Service
1041 Class," which shall become effective February 1, 1987.

1042 (1)

1043 (b)1. Except as provided in subparagraph 2., effective
1044 January 1, 1990, participation in the Senior Management Service

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1045 Class is ~~shall be~~ compulsory for the president of each community
1046 college, the manager of each participating city or county, and
1047 all appointed district school superintendents. Effective January
1048 1, 1994, additional positions may be designated for inclusion in
1049 the Senior Management Service Class if ~~of the Florida Retirement~~
1050 ~~System, provided that:~~

1051 a. Positions to be included in the class are ~~shall be~~
1052 designated by the local agency employer. Notice of intent to
1053 designate positions for inclusion in the class must ~~shall~~ be
1054 published once a week for 2 consecutive weeks in a newspaper of
1055 general circulation published in the county or counties
1056 affected, as provided under ~~in~~ chapter 50.

1057 b. Up to 10 nonelective full-time positions may be
1058 designated for each local agency employer reporting to the
1059 department ~~of Management Services~~; for local agencies with 100
1060 or more regularly established positions, additional nonelective
1061 full-time positions may be designated, up to ~~not to exceed~~ 1
1062 percent of the regularly established positions within the
1063 agency.

1064 c. Each position added to the class must be a managerial or
1065 policymaking position filled by an employee who is not subject
1066 to continuing contract and serves at the pleasure of the local
1067 agency employer without civil service protection, and who:

1068 (I) Heads an organizational unit; or

1069 (II) Has responsibility to effect or recommend personnel,
1070 budget, expenditure, or policy decisions in his or her areas of
1071 responsibility.

1072 2. In lieu of participation in the Senior Management
1073 Service Class, members of the ~~Senior Management Service class,~~

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1074 pursuant to ~~the provisions of~~ subparagraph 1., may withdraw from
 1075 the Florida Retirement System altogether. The decision to
 1076 withdraw from the ~~Florida Retirement~~ system ~~is shall be~~
 1077 irrevocable ~~for~~ as long as the employee holds the ~~such a~~
 1078 position. Any service creditable under the Senior Management
 1079 Service Class shall be retained after the member withdraws from
 1080 the ~~Florida Retirement~~ system; however, additional service
 1081 credit in the Senior Management Service Class may ~~shall~~ not be
 1082 earned after such withdrawal. Such members are ~~shall~~ not be
 1083 eligible to participate in the Senior Management Service
 1084 Optional Annuity Program.

1085 3. Effective January 1, 2006, through June 30, 2006, an
 1086 employee who has withdrawn from the Florida Retirement System
 1087 under subparagraph 2. has one opportunity to elect to
 1088 participate in ~~either~~ the pension plan or investment plan
 1089 ~~defined benefit program or the Public Employee Optional~~
 1090 ~~Retirement Program~~ of the Florida Retirement System.

1091 a. If the employee elects to participate in the investment
 1092 plan ~~Public Employee Optional Retirement Program~~, membership is
 1093 ~~shall be~~ prospective, and the applicable provisions of s.
 1094 121.4501(4) shall govern the election.

1095 b. If the employee elects to participate in the pension
 1096 plan ~~defined benefit program of the Florida Retirement System~~,
 1097 the employee shall, upon payment to the system trust fund of the
 1098 amount calculated under sub-sub-subparagraph (I), receive
 1099 service credit for prior service based upon the time during
 1100 which the employee had withdrawn from the system.

1101 (I) The cost for such credit shall be an amount
 1102 representing the actuarial accrued liability for the affected

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1103 period of service. The cost shall be calculated using the
1104 discount rate and other relevant actuarial assumptions that were
1105 used to value pension ~~the Florida Retirement System defined~~
1106 ~~benefit~~ plan liabilities in the most recent actuarial valuation.
1107 The calculation must ~~shall~~ include any service already
1108 maintained under the pension ~~defined benefit~~ plan in addition to
1109 the period of withdrawal. The actuarial accrued liability
1110 attributable to any service already maintained under the pension
1111 ~~defined benefit~~ plan shall be applied as a credit to the total
1112 cost resulting from the calculation. The division must ~~shall~~
1113 ensure that the transfer sum is prepared using a formula and
1114 methodology certified by an actuary.

1115 (II) The employee must transfer a sum representing the net
1116 cost owed for the actuarial accrued liability in sub-sub-
1117 subparagraph (I) immediately following the time of such
1118 movement, determined assuming that attained service equals the
1119 sum of service in the pension plan ~~defined benefit program~~ and
1120 the period of withdrawal.

1121 (j) Except as may otherwise be provided, a ~~any~~ member of
1122 the Senior Management Service Class may purchase additional
1123 retirement credit in such class for creditable service within
1124 the purview of the Senior Management Service Class retroactive
1125 to February 1, 1987, and may upgrade retirement credit for such
1126 service, to the extent of 2 percent of the member's average
1127 monthly compensation as specified in paragraph (4) (d) for such
1128 service. Contributions for upgrading ~~the~~ additional Senior
1129 Management Service credit are pursuant to this paragraph shall
1130 ~~be~~ equal to the difference in the employer and, if applicable,
1131 employee contributions paid and the Senior Management Service

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1132 Class contribution rate as a percentage of gross salary in
1133 effect for the period being claimed, plus interest thereon at
1134 the rate of 6.5 percent a year, compounded annually until the
1135 date of payment. ~~The~~ This service credit may be purchased by the
1136 employer on behalf of the member.

1137 (3)

1138 (b) The employer or member of the Senior Management Service
1139 Class, as applicable, ~~paying the salary of a member of the~~
1140 ~~Senior Management Service Class~~ shall contribute an amount as
1141 specified in this section or s. 121.71, as appropriate, which
1142 shall constitute the entire ~~employer~~ retirement contribution
1143 with respect to such member. The employer shall also withhold
1144 one-half of the entire contribution of the member required for
1145 social security coverage. Effective July 1, 2011, each member
1146 shall pay employee contributions as specified in s. 121.71.

1147 (c) Three months after termination of employment from all
1148 participating employers for any reason other than retirement, a
1149 member is entitled to a refund of all contributions he or she
1150 made before or after participation in the noncontributory plan,
1151 subject to the restrictions otherwise provided in this chapter.
1152 Employer contributions made on behalf of the member are not
1153 refundable. The refund may not include any interest earnings on
1154 the contributions to the pension plan. A member may not receive
1155 a refund of employee contributions if a pending or an approved
1156 qualified domestic relations order is filed against the member's
1157 retirement account. By obtaining a refund of contributions, a
1158 member waives all rights under the Florida Retirement System,
1159 including the health insurance subsidy under paragraph (d), to
1160 the service credit represented by the refunded contributions,

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1161 except the right to purchase his or her prior service credit in
1162 accordance with s. 121.081(2).

1163 (6)

1164 (c) *Participation.*—

1165 1. An eligible employee who is employed on or before
1166 February 1, 1987, may elect to participate in the optional
1167 annuity program in lieu of participating ~~participation~~ in the
1168 Senior Management Service Class. Such election must be made in
1169 writing and filed with the department and the personnel officer
1170 of the employer on or before May 1, 1987. An eligible employee
1171 who is employed on or before February 1, 1987, and who fails to
1172 make an election to participate in the optional annuity program
1173 by May 1, 1987, shall be deemed to have elected membership in
1174 the Senior Management Service Class.

1175 2. Except as provided in subparagraph 6., an employee who
1176 becomes eligible to participate in the optional annuity program
1177 by reason of initial employment commencing after February 1,
1178 1987, may, within 90 days after the date of commencing
1179 employment, elect to participate in the optional annuity
1180 program. Such election must be made in writing and filed with
1181 the personnel officer of the employer. An eligible employee who
1182 does not within 90 days after commencing employment elect to
1183 participate in the optional annuity program shall be deemed to
1184 have elected membership in the Senior Management Service Class.

1185 3. A person who is appointed to a position in the Senior
1186 Management Service Class and who is a member of an existing
1187 retirement system or the Special Risk or Special Risk
1188 Administrative Support Classes of the Florida Retirement System
1189 may elect to remain in such system or class in lieu of

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1190 participating ~~participation~~ in the Senior Management Service
1191 Class or optional annuity program. Such election must be made in
1192 writing and filed with the department and the personnel officer
1193 of the employer within 90 days after ~~of~~ such appointment. An ~~Any~~
1194 eligible employee who fails to make an election to participate
1195 in the existing system, the Special Risk Class of the Florida
1196 Retirement System, the Special Risk Administrative Support Class
1197 of the Florida Retirement System, or the optional annuity
1198 program shall be deemed to have elected membership in the Senior
1199 Management Service Class.

1200 4. Except as provided in subparagraph 5., an employee's
1201 election to participate in the optional annuity program is
1202 irrevocable if the employee continues to be employed in an
1203 eligible position and continues to meet the eligibility
1204 requirements set forth in this paragraph.

1205 5. Effective from July 1, 2002, through September 30, 2002,
1206 an ~~any~~ active employee in a regularly established position who
1207 has elected to participate in the Senior Management Service
1208 Optional Annuity Program has one opportunity to choose to move
1209 from the Senior Management Service Optional Annuity Program to
1210 the Florida Retirement System's pension plan ~~System-defined~~
1211 ~~benefit program~~.

1212 a. The election must be made in writing and must be filed
1213 with the department and the personnel officer of the employer
1214 before October 1, 2002, or, in the case of an active employee
1215 who is on a leave of absence on July 1, 2002, within 90 days
1216 after the conclusion of the leave of absence. This election is
1217 irrevocable.

1218 b. The employee shall receive service credit under the

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1219 ~~pension plan defined benefit program of the Florida Retirement~~
1220 ~~System~~ equal to his or her years of service under the Senior
1221 Management Service Optional Annuity Program. The cost for such
1222 credit is the amount representing the present value of that
1223 employee's accumulated benefit obligation for the affected
1224 period of service.

1225 c. The employee must transfer the total accumulated
1226 employer contributions and earnings on deposit in his or her
1227 Senior Management Service Optional Annuity Program account. If
1228 the transferred amount is not sufficient to pay the amount due,
1229 the employee must pay a sum representing the remainder of the
1230 amount due. The employee may not retain any employer
1231 contributions or earnings ~~thereon~~ from the Senior Management
1232 Service Optional Annuity Program account.

1233 6. A retiree of a state-administered retirement system who
1234 is initially reemployed on or after July 1, 2010, may not renew
1235 membership in the Senior Management Service Optional Annuity
1236 Program.

1237 (d) *Contributions.*—

1238 1.a. Through June 30, 2001, each employer shall contribute
1239 on behalf of each member of participant ~~in~~ the Senior Management
1240 Service Optional Annuity Program an amount equal to the normal
1241 cost portion of the employer retirement contribution which would
1242 be required if the employee participant were a Senior Management
1243 Service Class member of the Florida Retirement System's pension
1244 plan System defined benefit program, plus the portion of the
1245 contribution rate required in s. 112.363(8) which ~~that~~ would
1246 otherwise be assigned to the Retiree Health Insurance Subsidy
1247 Trust Fund.

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1248 b. Effective July 1, 2001, each employer shall contribute
1249 on behalf of each member of participant in the optional annuity
1250 program an amount equal to 12.49 percent of the employee's
1251 ~~participant's~~ gross monthly compensation.

1252 c. Effective July 1, 2011, each member of the optional
1253 annuity program shall contribute an amount equal to the employee
1254 contribution required in s. 121.71(3). The employer shall
1255 contribute on behalf of each such employee an amount equal to
1256 the difference between 12.49 percent of the employee's gross
1257 monthly compensation and the amount equal to the employee's
1258 required contribution based on the employee's gross monthly
1259 compensation.

1260 d. ~~The department shall deduct an amount approved by the~~
1261 ~~Legislature to provide for the administration of this program.~~
1262 The Payment of the contributions, including contributions made
1263 by the employee, to the optional program which is required by
1264 ~~this subparagraph for each participant~~ shall be made by the
1265 employer to the department, which shall forward the
1266 contributions to the designated company or companies contracting
1267 for payment of benefits for members of the participant under the
1268 optional annuity program. The department shall deduct an amount
1269 approved by the Legislature to provide for the administration of
1270 the program.

1271 2. Each employer shall contribute on behalf of each member
1272 of participant in the Senior Management Service Optional Annuity
1273 Program an amount equal to the unfunded actuarial accrued
1274 liability portion of the employer contribution which would be
1275 required for members of the Senior Management Service Class in
1276 the Florida Retirement System. This contribution shall be paid

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1277 to the department for transfer to the Florida Retirement System
1278 Trust Fund.

1279 3. An Optional Annuity Program Trust Fund shall be
1280 established in the State Treasury and administered by the
1281 department to make payments to provider companies on behalf of
1282 the optional annuity program members ~~participants~~, and to
1283 transfer the unfunded liability portion of the state optional
1284 annuity program contributions to the Florida Retirement System
1285 Trust Fund.

1286 4. Contributions required for social security by each
1287 employer and each employee ~~participant~~, in the amount required
1288 for social security coverage as now or hereafter may be provided
1289 by the federal Social Security Act, shall be maintained for each
1290 member of ~~participant in~~ the Senior Management Service
1291 retirement program and are ~~shall be~~ in addition to the
1292 retirement contributions specified in this paragraph.

1293 5. Each member of ~~participant in~~ the ~~Senior Management~~
1294 ~~Service~~ optional annuity program may contribute by way of salary
1295 reduction or deduction a percentage amount of the employee's
1296 ~~participant's~~ gross compensation not to exceed the percentage
1297 amount contributed by the employer to the optional annuity
1298 program. Payment of the employee's ~~participant's~~ contributions
1299 shall be made by the employer to the department, which shall
1300 forward the contributions to the designated company or companies
1301 contracting for payment of benefits for member's ~~the participant~~
1302 under the program.

1303 (e) *Benefits.*—

1304 1. Benefits under the Senior Management Service Optional
1305 Annuity Program are payable only to members of ~~participants in~~

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1306 the program, or their beneficiaries as designated by the member
1307 ~~participant~~ in the contract with the provider company, and must
1308 be paid by the designated company in accordance with the terms
1309 of the annuity contract applicable to the member ~~participant~~. A
1310 member ~~participant~~ must be terminated from all employment
1311 relationships with Florida Retirement System employers as
1312 provided in s. 121.021(39) to begin receiving the employer-
1313 funded benefit. Benefits funded by employer contributions are
1314 payable under the terms of the contract to the member
1315 ~~participant~~, his or her beneficiary, or his or her estate, in
1316 addition to:

1317 a. A lump-sum payment to the beneficiary upon the death of
1318 the member ~~participant~~;

1319 b. A cash-out of a de minimis account upon the request of a
1320 former member ~~participant~~ who has been terminated for a minimum
1321 of 6 calendar months from the employment that entitled him or
1322 her to optional annuity program participation. Such cash-out
1323 must be a complete liquidation of the account balance with that
1324 company and is subject to the Internal Revenue Code;

1325 c. A mandatory distribution of a de minimis account of a
1326 former member ~~participant~~ who has been terminated for a minimum
1327 of 6 calendar months from the employment that entitled him or
1328 her to optional annuity program participation as authorized by
1329 the department; or

1330 d. A lump-sum direct rollover distribution whereby all
1331 accrued benefits, plus interest and investment earnings, are
1332 paid from the member's ~~participant's~~ account directly to the
1333 custodian of an eligible retirement plan, as defined in s.
1334 402(c)(8)(B) of the Internal Revenue Code, on behalf of the

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1335 member participant.

1336 2. The benefits payable to any person under the ~~Senior~~
1337 ~~Management Service~~ optional annuity program, and any
1338 contribution accumulated under such program, are not subject to
1339 assignment, execution, or attachment or to any legal process
1340 ~~whatsoever~~.

1341 3. Except as provided in subparagraph 4., a member
1342 ~~participant~~ who terminates employment and receives a
1343 distribution, including a rollover or trustee-to-trustee
1344 transfer, funded by employer or employee contributions is ~~shall~~
1345 ~~be~~ deemed to be retired from a state-administered retirement
1346 system if the retiree ~~participant~~ is subsequently employed with
1347 an employer that participates in the Florida Retirement System.

1348 4. A member ~~participant~~ who receives optional annuity
1349 program benefits funded by employer or employee contributions as
1350 a mandatory distribution of a de minimis account authorized by
1351 the department is not considered a retiree.

1352

1353 As used in this paragraph, a "de minimis account" means an
1354 account with a provider company containing employer or employee
1355 contributions and accumulated earnings of not more than \$5,000
1356 made under this chapter.

1357 Section 12. Subsections (2) and (5) and paragraph (c) of
1358 subsection (6) of section 121.071, Florida Statutes, are
1359 amended, present paragraph (d) of subsection (6) of that section
1360 is redesignated as paragraph (e), and a new paragraph (d) is
1361 added to that subsection, to read:

1362 121.071 Contributions.—Contributions to the system shall be
1363 made as follows:

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1364 (2) (a) Effective January 1, 1975, or October 1, 1975, as
1365 applicable, and through June 30, 2011, each employer shall make
1366 ~~accomplish~~ the contribution required by subsection (1) by a
1367 procedure in which no employee's gross salary is ~~shall be~~
1368 reduced. Effective July 1, 2011, each employee, and his or her
1369 employer, shall pay retirement contributions as specified in s.
1370 121.71.

1371 (b) Three calendar months after ~~Upon~~ termination of
1372 employment from all participating employers for any reason other
1373 than retirement, a member is ~~shall be~~ entitled to a full refund
1374 of the contributions he or she ~~has~~ made before or after ~~prior or~~
1375 ~~subsequent~~ to participation in the noncontributory plan, subject
1376 to ~~the~~ restrictions otherwise provided in this chapter. Partial
1377 refunds are not permitted. Employer contributions made on behalf
1378 of the member are not refundable. The refund may not include
1379 interest earnings on contributions for a member of the pension
1380 plan. A member may not receive a refund of employee
1381 contributions if a pending or approved qualified domestic
1382 relations order is filed against his or her retirement account.
1383 By obtaining a refund of contributions, a member waives all
1384 rights under the Florida Retirement System and the health
1385 insurance subsidy to the service credit represented by the
1386 refunded contributions, except the right to purchase his or her
1387 prior service credit in accordance with s. 121.081(2).

1388 (5) Contributions made in accordance with subsections (1),
1389 (2), (3), and (4), and s. 121.71 shall be paid ~~by the employer~~
1390 into the system trust funds in accordance with rules adopted by
1391 the administrator pursuant to chapter 120, except as ~~may be~~
1392 otherwise specified herein. Effective July 1, 2002,

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1393 contributions paid under subsections (1) and (4) and
1394 accompanying payroll data are due and payable by ~~no later than~~
1395 the 5th working day of the month immediately following the month
1396 during which the payroll period ended.

1397 (6)

1398 (c) By obtaining a refund of contributions, a member waives
1399 all rights under the Florida Retirement System, including the
1400 health insurance subsidy under subsection (4), to the service
1401 credit represented by the refunded contributions, except the
1402 right to purchase his or her prior service credit in accordance
1403 with s. 121.081(2).

1404 (d) If a member or former member of the pension plan
1405 receives an invalid refund from the Florida Retirement System
1406 Trust Fund, such person must repay the full amount of the
1407 refund, plus interest at 6.5 percent compounded annually on each
1408 June 30 from the date of refund until full repayment is made.
1409 The invalid refund must be repaid before the member retires or,
1410 if applicable, transfers to the investment plan.

1411 Section 13. Paragraphs (b) and (c) of subsection (1) and
1412 subsection (2) of section 121.081, Florida Statutes, are amended
1413 to read:

1414 121.081 Past service; prior service; contributions.—
1415 Conditions under which past service or prior service may be
1416 claimed and credited are:

1417 (1)

1418 (b) Past service earned after January 1, 1975, may be
1419 claimed by officers or employees of a municipality, metropolitan
1420 planning organization, charter school, charter technical career
1421 center, or special district who become a covered group under

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1422 this system. The governing body of a covered group may elect to
1423 provide benefits for past service earned after January 1, 1975,
1424 in accordance with this chapter. ~~and~~ The cost for such past
1425 service is established by applying the following formula: The
1426 employer shall contribute an amount equal to the employer or
1427 employee contribution rate in effect at the time the service was
1428 earned, as applicable, multiplied by the employee's gross salary
1429 for each year of past service claimed, plus 6.5 percent ~~6.5-~~
1430 ~~percent~~ interest thereon, compounded annually, for ~~figured on~~
1431 each year of past service, with interest compounded from date of
1432 annual salary earned until date of payment.

1433 (c) If an ~~Should the~~ employer joined the Florida Retirement
1434 System before July 1, 2011, and does not elect to provide past
1435 service for the member on the date of joining the system, then
1436 the member may claim and pay for the service as provided in
1437 ~~same, based on~~ paragraphs (a) and (b).

1438 (2) Prior service, as defined in s. 121.021~~(19)~~, may be
1439 claimed as creditable service under the Florida Retirement
1440 System after a member has been reemployed for 1 complete year of
1441 creditable service ~~within a period of 12 consecutive months,~~
1442 except as provided in paragraph (c). Service performed as a
1443 member participant of the optional retirement program for the
1444 State University System under s. 121.35 or the Senior Management
1445 Service Optional Annuity Program under s. 121.055 may be used to
1446 satisfy the reemployment requirement of 1 complete year of
1447 creditable service. The member may ~~shall not be permitted to~~
1448 make any contributions for prior service until after completion
1449 of the 1 year of creditable service. If a member does not wish
1450 to claim credit for all of his or her prior service, the service

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1451 the member claims must be the most recent period of service. The
1452 required contributions for claiming the various types of prior
1453 service are:

1454 (a) For prior service performed before ~~prior to~~ the date
1455 the system becomes noncontributory for the member and for which
1456 the member had credit under one of the existing retirement
1457 systems and received a refund of contributions upon termination
1458 of employment, the member shall contribute 4 percent of all
1459 salary received during the period being claimed, plus 4 percent
1460 ~~4 percent~~ interest compounded annually from date of refund until
1461 July 1, 1975, and 6.5 percent ~~6.5 percent~~ interest compounded
1462 annually thereafter, until full payment is made to the Florida
1463 Retirement System Trust Fund, and shall receive credit in the
1464 Regular Class. A member who elected to transfer to the Florida
1465 Retirement System from an existing system may receive credit for
1466 prior service under the existing system if he or she was
1467 eligible under the existing system to claim the prior service at
1468 the time of the transfer. Contributions for such prior service
1469 shall be determined by the applicable provisions of the system
1470 under which the prior service is claimed and shall be paid by
1471 the member, with matching contributions paid by the employer at
1472 the time the service was performed. Effective July 1, 1978, the
1473 account of a person who terminated under s. 238.05(3) may not be
1474 charged interest for contributions that remained on deposit in
1475 the Annuity Savings Trust Fund established under chapter 238,
1476 upon retirement under this chapter or chapter 238.

1477 (b) For prior service performed before ~~prior to~~ the date
1478 the system becomes noncontributory for the member and for which
1479 the member had credit under the Florida Retirement System and

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1480 received a refund of contributions upon termination of
1481 employment, the member shall contribute at the rate that was
1482 required of him or her during the period of service being
1483 claimed, on all salary received during such period, plus 4
1484 percent ~~4-percent~~ interest compounded annually from date of
1485 refund until July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest
1486 compounded annually thereafter, until the full payment is made
1487 to the Florida Retirement System Trust Fund, and ~~shall~~ receive
1488 credit in the membership class in which the member participated
1489 during the period claimed.

1490 (c) For prior service as defined in s. 121.021(19)(b) and
1491 (c) during which no contributions were made because the member
1492 did not participate in a retirement system, the member shall
1493 contribute 14.38 percent of all salary received during such
1494 period or 14.38 percent of \$100 per month during such period,
1495 whichever is greater, plus 4 percent ~~4-percent~~ interest
1496 compounded annually from the first year of service claimed until
1497 July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest compounded
1498 annually thereafter, until full payment is made to the
1499 Retirement Trust Fund, and shall receive credit in the Regular
1500 Class.

1501 (d) In order to claim credit for prior service as defined
1502 in s. 121.021(19)(d) for which no retirement contributions were
1503 paid during the period of such service, the member shall
1504 contribute the total employee and employer contributions which
1505 were required to be made to the Highway Patrol Pension Trust
1506 Fund, as provided in chapter 321, during the period claimed,
1507 plus 4 percent ~~4-percent~~ interest compounded annually from the
1508 first year of service until July 1, 1975, and 6.5 percent ~~6.5-~~

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1509 ~~percent~~ interest compounded annually thereafter, until full
1510 payment is made to the Retirement Trust Fund. However, any
1511 governmental entity that ~~which~~ employed such member may elect to
1512 pay up to 50 percent of the contributions and interest required
1513 to purchase the ~~this~~ prior service credit. The service shall be
1514 credited in accordance with the ~~provisions of the~~ Highway Patrol
1515 Pension Plan in effect during the period claimed unless the
1516 member terminated and withdrew his or her retirement
1517 contributions and was thereafter enrolled in the State and
1518 County Officers and Employees' Retirement System or the Florida
1519 Retirement System, in which case the service shall be credited
1520 as Regular Class service.

1521 (e) For service performed under the Florida Retirement
1522 System after December 1, 1970, which ~~that~~ was never reported to
1523 the division or the department due to error, retirement credit
1524 may be claimed by a member of the Florida Retirement System. The
1525 department shall adopt rules establishing criteria for claiming
1526 such credit and detailing the documentation required to
1527 substantiate the error.

1528 (f) For prior service performed on or after July 1, 2011,
1529 for which the member had credit under the Florida Retirement
1530 System and received a refund of contributions 3 months after
1531 termination of employment, the member shall contribute at the
1532 rate that was required during the period of service being
1533 claimed, plus 6.5 percent interest, compounded annually on each
1534 June 30 from date of refund until the full payment is made to
1535 the Florida Retirement System Trust Fund, and shall receive
1536 credit in the membership class in which the member participated
1537 during the period claimed.

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1538 (g)~~(f)~~ The employer may not ~~be required to~~ make
1539 contributions for prior service credit for any member, except
1540 that the employer shall pay the employer portion of
1541 contributions for any legislator who elects to withdraw from the
1542 Florida Retirement System and later rejoins the system and pays
1543 any employee contributions required in accordance with s.
1544 121.052(3)(d).

1545 Section 14. Paragraph (a) of subsection (3), paragraph (a)
1546 of subsection (4), paragraphs (a) and (c) of subsection (5),
1547 paragraph (d) of subsection (9), and paragraph (d) of subsection
1548 (14) of section 121.091, Florida Statutes, are amended, present
1549 paragraphs (e) through (k) of subsection (5) of that section are
1550 renumbered as paragraphs (f) through (l), respectively, and a
1551 new paragraph (d) is added to that subsection, to read:

1552 121.091 Benefits payable under the system.—Benefits may not
1553 be paid under this section unless the member has terminated
1554 employment as provided in s. 121.021(39)(a) or begun
1555 participation in the Deferred Retirement Option Program as
1556 provided in subsection (13), and a proper application has been
1557 filed in the manner prescribed by the department. The department
1558 may cancel an application for retirement benefits when the
1559 member or beneficiary fails to timely provide the information
1560 and documents required by this chapter and the department's
1561 rules. The department shall adopt rules establishing procedures
1562 for application for retirement benefits and for the cancellation
1563 of such application when the required information or documents
1564 are not received.

1565 (3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or her
1566 early retirement date, the member shall receive an immediate

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1567 monthly benefit that shall begin to accrue on the first day of
1568 the month of the retirement date and be payable on the last day
1569 of that month and each month thereafter during his or her
1570 lifetime. Such benefit shall be calculated as follows:

1571 (a) The amount of each monthly payment shall be computed in
1572 the same manner as ~~for~~ a normal retirement benefit, in
1573 accordance with subsection (1), but shall be based on the
1574 member's average monthly compensation and creditable service as
1575 of the member's early retirement date. The benefit so computed
1576 shall be reduced by five-twelfths of 1 percent for each complete
1577 month by which the early retirement date precedes the normal
1578 retirement date of age 62 for a member of the Regular Class,
1579 Senior Management Service Class, or the Elected Officers' Class,
1580 and age 55 for a member of the Special Risk Class, or age 52 if
1581 a Special Risk member has completed 25 years of creditable
1582 service in accordance with s. 121.021(29) ~~(b)3~~.

1583 (4) DISABILITY RETIREMENT BENEFIT.—

1584 (a) *Disability retirement; entitlement and effective date.*—

1585 1.a. A member who becomes totally and permanently disabled,
1586 as defined in paragraph (b), after completing 5 years of
1587 creditable service, or a member who becomes totally and
1588 permanently disabled in the line of duty regardless of service,
1589 is shall be entitled to a monthly disability benefit; except
1590 that any member with less than 5 years of creditable service on
1591 July 1, 1980, or any person who becomes a member of the Florida
1592 Retirement System on or after such date must have completed 10
1593 years of creditable service before ~~prior~~ to becoming totally and
1594 permanently disabled in order to receive disability retirement
1595 benefits for any disability which occurs other than in the line

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1596 of duty. However, if a member employed on July 1, 1980, that has
1597 ~~with~~ less than 5 years of creditable service as of that date,
1598 becomes totally and permanently disabled after completing 5
1599 years of creditable service and is found not to have attained
1600 fully insured status for benefits under the federal Social
1601 Security Act, such member is ~~shall be~~ entitled to a monthly
1602 disability benefit.

1603 b. Effective July 1, 2001, a member of the pension plan
1604 ~~defined benefit retirement program~~ who becomes totally and
1605 permanently disabled, as defined in paragraph (b), after
1606 completing 8 years of creditable service, or a member who
1607 becomes totally and permanently disabled in the line of duty
1608 regardless of service, is ~~shall be~~ entitled to a monthly
1609 disability benefit.

1610 2. If the division has received from the employer the
1611 required documentation of the member's termination of
1612 employment, the effective retirement date for a member who
1613 applies and is approved for disability retirement shall be
1614 established by rule of the division.

1615 3. For a member who is receiving Workers' Compensation
1616 payments, the effective disability retirement date may not
1617 precede the date the member reaches Maximum Medical Improvement
1618 (MMI), unless the member terminates employment before ~~prior to~~
1619 reaching MMI.

1620 (5) TERMINATION BENEFITS.—A member whose employment is
1621 terminated before ~~prior to~~ retirement retains membership rights
1622 to previously earned member-noncontributory service credit, and
1623 to member-contributory service credit, if the member leaves the
1624 member contributions on deposit in his or her retirement

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1625 account. If a terminated member receives a refund of member
1626 contributions, such member may reinstate membership rights to
1627 the previously earned service credit represented by the refund
1628 by completing 1 year of creditable service and repaying the
1629 refunded member contributions, plus interest.

1630 (a) A member whose employment is terminated for any reason
1631 other than death or retirement before ~~prior to~~ becoming vested
1632 is entitled to the return of his or her accumulated employee
1633 contributions as of the date of termination.

1634 (c) In lieu of the deferred monthly benefit provided in
1635 paragraph (b), the terminated member may elect to receive a
1636 lump-sum amount equal to his or her accumulated employee
1637 contributions as of the date of termination.

1638 (d) Upon termination of employment from all participating
1639 employers for 3 calendar months for any reason other than
1640 retirement, a member may receive a refund of all contributions
1641 he or she has made to the pension plan, subject to restrictions
1642 otherwise provided in this chapter. Partial refunds are not
1643 permitted. The refund may not include any interest earnings on
1644 the contributions for a member of the pension plan. Employer
1645 contributions made on behalf of the member are not refundable. A
1646 member may not receive a refund of employee contributions if a
1647 pending or an approved qualified domestic relations order is
1648 filed against his or her retirement account. By obtaining a
1649 refund of contributions, a member waives all rights under the
1650 Florida Retirement System and the health insurance subsidy to
1651 the service credit represented by the refunded contributions,
1652 except the right to purchase his or her prior service credit in
1653 accordance with s. 121.081(2).

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1654 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

1655 (d) ~~The provisions of~~ This subsection applies apply to
1656 retirees, as defined in s. 121.4501(2), of the Florida Public
1657 ~~Employee Optional Retirement System Investment Plan Program,~~
1658 subject to the following conditions:

1659 1. The retiree ~~retirees~~ may not be reemployed with an
1660 employer participating in the Florida Retirement System until
1661 such person has been retired for 6 calendar months.

1662 2. A retiree employed in violation of this subsection and
1663 an employer that employs or appoints such person are jointly and
1664 severally liable for reimbursement of any benefits paid to the
1665 retirement trust fund from which the benefits were paid,
1666 ~~including the Retirement System Trust Fund and the Public~~
1667 ~~Employee Optional Retirement Program Trust Fund, as appropriate.~~
1668 The employer must have a written statement from the retiree that
1669 he or she is not retired from a state-administered retirement
1670 system.

1671 (14) PAYMENT OF BENEFITS.—This subsection applies to the
1672 payment of benefits to a payee (retiree or beneficiary) under
1673 the Florida Retirement System:

1674 (d) A payee whose retirement benefits are reduced by the
1675 application of maximum benefit limits under s. 415(b) of the
1676 Internal Revenue Code, as specified in s. 121.30(5), shall have
1677 the portion of his or her calculated benefit in the Florida
1678 Retirement System's pension System defined benefit plan which
1679 exceeds such federal limitation paid through the Florida
1680 Retirement System Preservation of Benefits Plan, as provided in
1681 s. 121.1001.

1682 Section 15. Subsection (1) and paragraph (a) of subsection

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1683 (2) of section 121.1001, Florida Statutes, are amended to read:

1684 121.1001 Florida Retirement System Preservation of Benefits
1685 Plan.—Effective July 1, 1999, the Florida Retirement System
1686 Preservation of Benefits Plan is established as a qualified
1687 governmental excess benefit arrangement pursuant to s. 415(m) of
1688 the Internal Revenue Code. The Preservation of Benefits Plan is
1689 created as a separate portion of the Florida Retirement System,
1690 for the purpose of providing benefits to a payee (retiree or
1691 beneficiary) of the Florida Retirement System whose benefits
1692 would otherwise be limited by s. 415(b) of the Internal Revenue
1693 Code.

1694 (1) ELIGIBILITY TO PARTICIPATE IN THE PRESERVATION OF
1695 BENEFITS PLAN.—A payee of the Florida Retirement System shall
1696 participate in the Preservation of Benefits Plan if ~~whenever~~ his
1697 or her earned benefit under the Florida Retirement System's
1698 pension System ~~defined benefit~~ plan exceeds the benefit maximum
1699 established under s. 415(b) of the Internal Revenue Code.
1700 Participation in the Preservation of Benefits Plan shall
1701 continue for as long as the payee's earned benefit under the
1702 pension ~~Florida Retirement System defined benefit~~ plan is
1703 reduced by the application of the maximum benefit limit under s.
1704 415(b) of the Internal Revenue Code.

1705 (2) BENEFITS PAYABLE UNDER THE PRESERVATION OF BENEFITS
1706 PLAN.—

1707 (a) On and after July 1, 1999, the Division of Retirement
1708 shall pay to each eligible payee of the Florida Retirement
1709 System who retires before, on, or after that ~~such~~ date, a
1710 supplemental retirement benefit equal to the difference between
1711 the amount of the payee's monthly retirement benefit which would

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1712 have been payable under the Florida Retirement System's pension
1713 ~~System defined benefit~~ plan if not for a reduction due to the
1714 application of s. 415(b) of the Internal Revenue Code and the
1715 reduced monthly retirement benefit as paid to the payee. The
1716 Preservation of Benefits Plan benefit shall be computed and
1717 payable under the same terms and conditions and to the same
1718 person as would have applied under the pension ~~Florida~~
1719 ~~Retirement System defined benefit~~ plan were it not for the
1720 federal limitation.

1721 Section 16. Subsection (1) of section 121.121, Florida
1722 Statutes, is amended to read:

1723 121.121 Authorized leaves of absence.-

1724 (1) A member may purchase creditable service for up to 2
1725 work years of authorized leaves of absence, including any leaves
1726 of absence covered under the Family Medical Leave Act, if:

1727 (a) The member has completed a minimum of 6 years of
1728 creditable service, excluding periods for which a leave of
1729 absence was authorized;

1730 (b) The leave of absence is authorized in writing by the
1731 employer of the member and approved by the administrator;

1732 (c) The member returns to active employment performing
1733 service with a Florida Retirement System employer in a regularly
1734 established position immediately upon termination of the leave
1735 of absence and remains on the employer's payroll for 1 calendar
1736 month, except that a member who retires on disability while on a
1737 medical leave of absence may ~~shall~~ not be required to return to
1738 employment. A member whose work year is less than 12 months and
1739 whose leave of absence terminates between school years is
1740 eligible to receive credit for the leave of absence if ~~as long~~

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1741 ~~as~~ he or she returns to the employment ~~of his or her employer~~ at
1742 the beginning of the next school year and remains on the
1743 employer's payroll for 1 calendar month; and

1744 (d) The member makes the required contributions for service
1745 credit during the leave of absence, which shall be 8 percent
1746 until January 1, 1975, and 9 percent thereafter of his or her
1747 rate of monthly compensation in effect immediately before ~~prior~~
1748 ~~to~~ the commencement of such leave for each month of such period,
1749 plus 4 percent interest until July 1, 1975, and 6.5 percent
1750 interest thereafter on such contributions, compounded annually
1751 each June 30 from the due date of the contribution to date of
1752 payment. Effective July 1, 1980, any leave of absence purchased
1753 pursuant to this section is ~~shall be~~ at the contribution rates
1754 specified in s. 121.071 or s. 121.71 in effect at the time the
1755 leave is granted for the class of membership from which the
1756 leave of absence was granted; however, any member who purchased
1757 leave-of-absence credit before ~~prior to~~ July 1, 1980, for a
1758 leave of absence from a position in a class other than the
1759 regular membership class, may pay the appropriate additional
1760 contributions plus compound interest thereon and receive
1761 creditable service for such leave of absence in the membership
1762 class from which the member was granted the leave of absence.
1763 Effective July 1, 2011, any leave of absence purchased pursuant
1764 to this section shall be at the employee and employer
1765 contribution rates specified in s. 121.71 in effect during the
1766 leave for the class of membership from which the leave of
1767 absence was granted.

1768 Section 17. Subsection (2) of section 121.122, Florida
1769 Statutes, is amended, and subsection (3) is added to that

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1770 section, to read:

1771 121.122 Renewed membership in system.-

1772 (2) A retiree of a state-administered retirement system who
1773 is initially reemployed on or after July 1, 2010, through June
1774 30, 2011, shall become a member of the Regular Class and be
1775 enrolled in the Florida Retirement System Investment Plan on
1776 July 1, 2011, and must resatisfy the vesting requirements and
1777 other provisions provided in this chapter ~~is not eligible for~~
1778 ~~renewed membership.~~

1779 (a) Creditable service, including credit towards the
1780 retiree health insurance subsidy provided in s. 112.363, does
1781 not accrue for a retiree's employment in a regularly established
1782 position with a covered employer during the period from July 1,
1783 2010, through June 30, 2011.

1784 (b) Employer contributions, interest, earnings, or any
1785 other funds may not be paid into a renewed member's investment
1786 plan account for any employment in a regularly established
1787 position with a covered employer during the period from July 1,
1788 2010, through June 30, 2011.

1789 (c) To be eligible to receive a retirement benefit under
1790 the investment plan, the renewed member must meet the vesting
1791 requirements of the plan as provided in s. 121.4501(6).

1792 (d) The member is not entitled to disability benefits as
1793 provided in s. 121.091(4) or s. 121.591(2).

1794 (e) The member must meet the reemployment after retirement
1795 limitations as provided in s. 121.091(9), as applicable.

1796 (f) Upon the renewed membership or reemployment of a
1797 retiree, the employer of such member and the retiree shall pay
1798 the applicable employer and employee contributions as required

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1799 by ss. 112.363, 121.71, 121.74, and 121.76. Such contributions
1800 are payable only for employment in a regularly established
1801 position with a covered employer on or after July 1, 2011.

1802 (g) The member may not purchase any prior or past service
1803 in the investment plan, including employment in a regularly
1804 established position with a covered employer during the period
1805 from July 1, 2010, through June 30, 2011.

1806 (h) A renewed member who is not receiving the maximum
1807 health insurance subsidy provided in s. 112.363 is entitled to
1808 earn additional credit toward the subsidy. Such credit may be
1809 earned only for employment in a regularly established position
1810 with a covered employer on or after July 1, 2011. Any additional
1811 subsidy due because of additional credit may be received only at
1812 the time of paying the second career retirement benefit. The
1813 total health insurance subsidy received by a retiree receiving
1814 benefits from initial and renewed membership may not exceed the
1815 maximum allowed under s. 112.363.

1816 (3) Any retiree of a state-administered retirement system
1817 who is initially reemployed on or after July 1, 2011, in a
1818 regularly established position with a covered employer,
1819 including an elective public office that does not qualify for
1820 the Elected Officers' Class, shall become a member of the
1821 Regular Class and be enrolled in the Florida Retirement System
1822 Investment Plan, and must resatisfy the vesting requirements and
1823 other provisions provided in this chapter.

1824 (a) To be eligible to receive a retirement benefit under
1825 the investment plan, the renewed member must meet the vesting
1826 requirements of the investment plan as provided in s.
1827 121.4501(6).

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1828 (b) The member is not entitled to disability benefits as
1829 provided in s. 121.091(4) or s. 121.591(2).

1830 (c) The member must meet the reemployment after retirement
1831 limitations provided in s. 121.091(9), as applicable.

1832 (d) Upon renewed membership or reemployment of a retiree,
1833 the employer of such member and the retiree must pay the
1834 applicable employer and employee contributions as required by
1835 ss. 112.363, 121.71, 121.74, and 121.76.

1836 (e) The member may not purchase any prior or past service
1837 in the investment plan.

1838 (f) A renewed member who is not receiving the maximum
1839 health insurance subsidy provided in s. 112.363 is entitled to
1840 earn additional credit toward the subsidy. Any additional
1841 subsidy due because of additional credit may be received only at
1842 the time of paying the second career retirement benefit. The
1843 total health insurance subsidy received by a retiree receiving
1844 benefits from initial and renewed membership may not exceed the
1845 maximum allowed under s. 112.363.

1846 Section 18. Section 121.125, Florida Statutes, is amended
1847 to read:

1848 121.125 Credit for workers' compensation payment periods.—A
1849 member of the retirement system created by this chapter who has
1850 been eligible or becomes eligible for ~~to receive~~ workers'
1851 compensation payments for an injury or illness that occurred
1852 ~~occurring~~ during ~~his or her~~ employment while a member of a any
1853 state retirement system shall, upon return to active employment
1854 with a covered employer for 1 calendar month or upon approval
1855 for disability retirement in accordance with s. 121.091(4),
1856 receive full retirement credit for the period before ~~prior to~~

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1857 such return to active employment or disability retirement for
1858 which the workers' compensation payments were received. However,
1859 a ~~no~~ member may not receive retirement credit for ~~any~~ such
1860 period occurring after the earlier of the date of maximum
1861 medical improvement as defined in s. 440.02 or the date
1862 termination has occurred as defined in s. 121.021~~(39)~~. The
1863 employer of record at the time of the worker's compensation
1864 injury or illness shall make the required employee and employer
1865 retirement contributions based on the member's rate of monthly
1866 compensation immediately before ~~prior to his or her~~ receiving
1867 workers' compensation payments for retirement credit received by
1868 the member.

1869 Section 19. Paragraphs (g) and (i) of subsection (3) and
1870 subsection (4) of section 121.35, Florida Statutes, are amended
1871 to read:

1872 121.35 Optional retirement program for the State University
1873 System.—

1874 (3) ELECTION OF OPTIONAL PROGRAM.—

1875 (g) An eligible employee who is a member of the Florida
1876 Retirement System at the time of electing ~~election~~ to
1877 participate in the optional retirement program shall retain all
1878 retirement service credit earned under the Florida Retirement
1879 System, at the rate earned. ~~No~~ Additional service credit in the
1880 ~~Florida Retirement~~ system may not ~~shall~~ be earned while the
1881 employee participates in the optional program, and ~~nor shall~~ the
1882 employee is not ~~be~~ eligible for disability retirement under the
1883 ~~Florida Retirement~~ system. An eligible employee may transfer
1884 from the Florida Retirement System to his or her accounts under
1885 the State University System Optional Retirement Program a sum

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1886 representing the present value of the employee's accumulated
 1887 benefit obligation under the ~~defined benefit program of the~~
 1888 Florida Retirement System's pension plan System for any service
 1889 credit accrued from the employee's first eligible transfer date
 1890 to the optional retirement program through the actual date of
 1891 such transfer, if such service credit was earned ~~in the period~~
 1892 from July 1, 1984, through December 31, 1992. The present value
 1893 of the employee's accumulated benefit obligation shall be
 1894 calculated as described in s. 121.4501(3) ~~s. 121.4501(3)(c)2.~~
 1895 Upon ~~such~~ transfer, all ~~such~~ service credit ~~previously~~ earned
 1896 under the pension plan ~~defined benefit program of the Florida~~
 1897 ~~Retirement System~~ during this period is ~~shall be~~ nullified for
 1898 purposes of entitlement to a future benefit under the pension
 1899 plan ~~defined benefit program of the Florida Retirement System.~~

1900 (i) Effective January 1, 2008, through December 31, 2008,
 1901 except for an employee who is a mandatory member ~~participant~~ of
 1902 the State University System Optional Retirement Program, an
 1903 employee who has elected to participate in the State University
 1904 System Optional Retirement Program shall have one opportunity,
 1905 at the employee's discretion, ~~to choose~~ to transfer from this
 1906 program to the pension plan or the investment plan ~~defined~~
 1907 ~~benefit program of the Florida Retirement System or to the~~
 1908 ~~Public Employee Optional Retirement Program~~, subject to the
 1909 terms of the applicable contracts of the State University System
 1910 Optional Retirement Program.

1911 1. If the employee chooses to move to the investment plan
 1912 ~~Public Employee Optional Retirement~~ program, any contributions,
 1913 interest, and earnings creditable to the employee under the
 1914 State University System Optional Retirement Program must ~~shall~~

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1915 be retained by the employee in the State University System
1916 Optional Retirement Program, and the applicable provisions of s.
1917 121.4501(4) shall govern the election.

1918 2. If the employee chooses to move to the pension plan
1919 ~~defined benefit program of the Florida Retirement System~~, the
1920 employee shall receive service credit equal to his or her years
1921 of service under the State University System Optional Retirement
1922 Program.

1923 a. The cost for such credit must be in ~~shall be~~ an amount
1924 representing the actuarial accrued liability for the affected
1925 period of service. The cost must ~~shall~~ be calculated using the
1926 discount rate and other relevant actuarial assumptions that were
1927 used to value the pension ~~Florida Retirement System defined~~
1928 ~~benefit~~ plan liabilities in the most recent actuarial valuation.
1929 The calculation must ~~shall~~ include any service already
1930 maintained under the pension ~~defined benefit~~ plan in addition to
1931 the years under the State University System Optional Retirement
1932 Program. The actuarial accrued liability of any service already
1933 maintained under the pension ~~defined benefit~~ plan must ~~shall~~ be
1934 applied as a credit to total cost resulting from the
1935 calculation. The division must ~~shall~~ ensure that the transfer
1936 sum is prepared using a formula and methodology certified by an
1937 enrolled actuary.

1938 b. The employee must transfer from his or her State
1939 University System Optional Retirement Program account, and from
1940 other employee moneys as necessary, a sum representing the
1941 actuarial accrued liability immediately following the time of
1942 such movement, determined assuming that attained service equals
1943 the sum of service in the pension plan ~~defined benefit program~~

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1944 and service in the State University System Optional Retirement
1945 Program.

1946 (4) CONTRIBUTIONS.—

1947 (a) 1. Through June 30, 2001, each employer shall contribute
1948 on behalf of each member of ~~participant in~~ the optional
1949 retirement program an amount equal to the normal cost portion of
1950 the employer retirement contribution which would be required if
1951 the employee ~~participant~~ were a regular member of the Florida
1952 Retirement System's pension plan ~~System defined benefit program~~,
1953 plus the portion of the contribution rate required in s.
1954 112.363(8) that would otherwise be assigned to the Retiree
1955 Health Insurance Subsidy Trust Fund.

1956 2. Effective July 1, 2001, through June 30, 2011, each
1957 employer shall contribute on behalf of each member of
1958 ~~participant in~~ the optional retirement program an amount equal
1959 to 10.43 percent of the employee's ~~participant's~~ gross monthly
1960 compensation.

1961 3. Effective July 1, 2011, each member of the optional
1962 retirement program shall contribute an amount equal to the
1963 employee contribution required in s. 121.71(3). The employer
1964 shall contribute on behalf of each such member an amount equal
1965 to the difference between 10.43 percent of the employee's gross
1966 monthly compensation and the amount equal to the employee's
1967 required contribution based on the employee's gross monthly
1968 compensation.

1969 4. ~~The department shall deduct an amount approved by the~~
1970 ~~Legislature to provide for the administration of this program.~~
1971 The payment of the contributions, including contributions by the
1972 employee, to the optional program which is required by this

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1973 ~~paragraph for each participant~~ shall be made by the employer to
1974 the department, which shall forward the contributions to the
1975 designated company or companies contracting for payment of
1976 benefits for member's of ~~the participant under~~ the program.
1977 However, such contributions paid on behalf of an employee
1978 described in paragraph (3) (c) may ~~shall~~ not be forwarded to a
1979 company and do ~~shall~~ not begin to accrue interest until the
1980 employee has executed a contract and notified the department.
1981 The department shall deduct an amount from the contributions to
1982 provide for the administration of this program.

1983 (b) Each employer shall contribute on behalf of each member
1984 of ~~participant in~~ the optional retirement program an amount
1985 equal to the unfunded actuarial accrued liability portion of the
1986 employer contribution which would be required for members of the
1987 Florida Retirement System. This contribution shall be paid to
1988 the department for transfer to the Florida Retirement System
1989 Trust Fund.

1990 (c) An Optional Retirement Program Trust Fund shall be
1991 established in the State Treasury and administered by the
1992 department to make payments to the provider companies on behalf
1993 of ~~the~~ optional retirement program members ~~participants~~, and to
1994 transfer the unfunded liability portion of the state optional
1995 retirement program contributions to the Florida Retirement
1996 System Trust Fund.

1997 (d) Contributions required for social security by each
1998 employer and each employee ~~participant~~, in the amount required
1999 for social security coverage as now or hereafter may be provided
2000 by the federal Social Security Act, shall be maintained for each
2001 member of ~~participant in~~ the optional retirement program and are

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2002 ~~shall be~~ in addition to the retirement contributions specified
2003 in this subsection.

2004 (e) Each member of participant ~~in~~ the optional retirement
2005 program who has executed a contract may contribute by way of
2006 salary reduction or deduction a percentage amount of the
2007 employee's participant's gross compensation not to exceed the
2008 percentage amount contributed by the employer to the optional
2009 program, but ~~in no case may~~ such contribution may not exceed
2010 federal limitations. Payment of the employee's participant's
2011 contributions shall be made by the financial officer of the
2012 employer to the division which shall forward the contributions
2013 to the designated company or companies contracting for payment
2014 of benefits for members ~~the participant~~ under the program. A
2015 member participant may not make, through salary reduction, any
2016 voluntary employee contributions to any other plan under s.
2017 403(b) of the Internal Revenue Code, with the exception of a
2018 custodial account under s. 403(b)(7) of the Internal Revenue
2019 Code, until he or she has made an employee contribution to his
2020 or her optional program equal to the employer contribution. An
2021 employee A participant is responsible for monitoring his or her
2022 individual tax-deferred income to ensure he or she does not
2023 exceed the maximum deferral amounts permitted under the Internal
2024 Revenue Code.

2025 (f) The Optional Retirement Trust Fund may accept for
2026 deposit into member participant contracts contributions in the
2027 form of rollovers or direct trustee-to-trustee transfers by or
2028 on behalf of members participants who are reasonably determined
2029 by the department to be eligible for rollover or transfer to the
2030 optional retirement program pursuant to the Internal Revenue

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2031 Code, if such contributions are made in accordance with rules
2032 adopted by the department. Such contributions shall be accounted
2033 for in accordance with any applicable requirements of the
2034 Internal Revenue Code and department rules ~~of the department~~.

2035 (g) Effective July 1, 2008, for purposes of paragraph (a)
2036 and notwithstanding s. 121.021(22)(b)1., the term "employee's
2037 ~~participant's~~ gross monthly compensation" includes salary
2038 payments made to eligible clinical faculty from a state
2039 university using funds provided by a faculty practice plan
2040 authorized by the Board of Governors of the State University
2041 System if:

2042 1. There is no ~~not any~~ employer contribution from the state
2043 university to any other retirement program with respect to such
2044 salary payments; and

2045 2. The employer contribution on behalf of a member of the
2046 ~~participant in~~ the optional retirement program with respect to
2047 such salary payments is made using funds provided by the faculty
2048 practice plan.

2049 Section 20. Section 121.355, Florida Statutes, is amended
2050 to read:

2051 121.355 Community College Optional Retirement Program and
2052 State University System Optional Retirement Program member
2053 transfer.—Effective January 1, 2009, through December 31, 2009,
2054 an employee who is a former member of ~~participant in~~ the
2055 Community College Optional Retirement Program or the State
2056 University System Optional Retirement Program and present
2057 mandatory member of ~~participant in~~ the Florida Retirement
2058 System's pension ~~System defined benefit~~ plan may receive service
2059 credit equal to his or her years of service under the Community

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2060 College Optional Retirement Program or the State University
2061 System Optional Retirement Program under the following
2062 conditions:

2063 (1) The cost for such credit must represent ~~shall be an~~
2064 ~~amount representing~~ the actuarial accrued liability for the
2065 affected period of service. The cost shall be calculated using
2066 the discount rate and other relevant actuarial assumptions that
2067 were used to value the Florida Retirement System's pension
2068 ~~System defined benefit~~ plan liabilities in the most recent
2069 actuarial valuation. The calculation must ~~shall~~ include any
2070 service already maintained under the pension ~~defined benefit~~
2071 plan in addition to the years under the Community College
2072 Optional Retirement Program or the State University System
2073 Optional Retirement Program. The actuarial accrued liability of
2074 any service already maintained under the pension ~~defined benefit~~
2075 plan shall be applied as a credit to total cost resulting from
2076 the calculation. The division shall ensure that the transfer sum
2077 is prepared using a formula and methodology certified by an
2078 enrolled actuary.

2079 (2) The employee must transfer from his or her Community
2080 College Optional Retirement Program account or State University
2081 System Optional Retirement Program account, subject to the terms
2082 of the applicable optional retirement program contract, and from
2083 other employee moneys as necessary, a sum representing the
2084 actuarial accrued liability immediately following the time of
2085 such movement, determined assuming that attained service equals
2086 the sum of service in the pension plan ~~defined benefit program~~
2087 and service in the Community College Optional Retirement Program
2088 or State University System Optional Retirement Program.

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2089 (3) The employee may not receive service credit for a
 2090 period of mandatory participation in the State University
 2091 Optional Retirement Program or for a period for which a
 2092 distribution was received from the Community College Optional
 2093 Retirement Program or State University System Optional
 2094 Retirement Program.

2095 Section 21. Section 121.4501, Florida Statutes, is amended
 2096 to read:

2097 121.4501 Florida Public Employee Optional Retirement System
 2098 Investment Plan Program.—

2099 (1) The Trustees of the State Board of Administration shall
 2100 establish a ~~an optional~~ defined contribution ~~retirement~~ program
 2101 called the Florida Retirement System Investment Plan for members
 2102 of the Florida Retirement System under which retirement benefits
 2103 are will be provided for eligible employees initially employed
 2104 before July 1, 2011, who elect to enroll participate in the
 2105 plan. Enrollment is compulsory for members of the Elected
 2106 Officers Class, the Senior Management Class, and any member of
 2107 any class for which the starting salary of the position in which
 2108 the member is employed is in excess of \$75,000 who are employed
 2109 on or after July 1, 2011, except for those who are eligible to
 2110 and elect to enroll in an optional retirement program
 2111 established under s. 121.055(6), s. 121.35, or s. 1012.875
 2112 program. The retirement benefits to be provided for or on behalf
 2113 of participants in such optional retirement program shall be
 2114 provided through employee-directed investments, in accordance
 2115 with s. 401(a) of the Internal Revenue Code and ~~its~~ related
 2116 regulations. ~~The Employers~~ and employees shall make
 2117 contributions contribute, as provided in this section and, ss.

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2118 121.571~~7~~ and 121.71~~7~~, to the Florida Public Employee Optional
2119 Retirement System Investment Plan Program Trust Fund toward the
2120 funding of ~~such optional~~ benefits.

2121 (2) DEFINITIONS.—As used in this part, the term:

2122 (a) "Approved provider" or "provider" means a private
2123 sector company that is selected and approved by the state board
2124 to offer one or more investment products or services to the
2125 investment plan optional retirement program. The term includes a
2126 bundled provider that offers plan members ~~participants~~ a range
2127 of individually allocated or unallocated investment products and
2128 may offer a range of administrative and customer services, which
2129 may include accounting and administration of individual member
2130 ~~participant~~ benefits and contributions; individual member
2131 ~~participant~~ recordkeeping; asset purchase, control, and
2132 safekeeping; direct execution of the member's ~~participant's~~
2133 instructions as to asset and contribution allocation;
2134 calculation of daily net asset values; direct access to member
2135 ~~participant~~ account information; periodic reporting to members
2136 ~~participants~~, at least quarterly, on account balances and
2137 transactions; guidance, advice, and allocation services directly
2138 relating to the provider's own investment options or products,
2139 but only if the bundled provider complies with the standard of
2140 care of s. 404(a)(1)(A-B) of the Employee Retirement Income
2141 Security Act of 1974 (ERISA) and if providing such guidance,
2142 advice, or allocation services does not constitute a prohibited
2143 transaction under s. 4975(c)(1) of the Internal Revenue Code or
2144 s. 406 of ERISA, notwithstanding that such prohibited
2145 transaction provisions do not apply to the ~~optional~~ retirement
2146 program; a broad array of distribution options; asset

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2147 allocation; and retirement counseling and education. Private
2148 sector companies include investment management companies,
2149 insurance companies, depositories, and mutual fund companies.

2150 (b) "Average monthly compensation" means one-twelfth of
2151 average final compensation as defined in s. 121.021.

2152 (c) "Covered employment" means employment in a regularly
2153 established position as defined in s. 121.021.

2154 ~~(d) "Defined benefit program" means the defined benefit
2155 program of the Florida Retirement System administered under part
2156 I of this chapter.~~

2157 (d) "District school board employer" means a district
2158 school board that participates in the Florida Retirement System
2159 for the benefit of certain employees, or a charter school or
2160 charter technical career center that participates in the Florida
2161 Retirement System as provided under s. 121.051(2)(d).

2162 (e) "Division" means the Division of Retirement within the
2163 department.

2164 (f) "Electronic means" means by telephone, if ~~the required~~
2165 information is received on a recorded line, or through Internet
2166 access, if ~~the required~~ information is captured online.

2167 (g) "Eligible employee" means an officer or employee, as
2168 defined in s. 121.021, who:

2169 1. Is a member of, or is eligible for membership in, the
2170 Florida Retirement System, including any renewed member of the
2171 Florida Retirement System initially enrolled before July 1,
2172 2010; or

2173 2. Participates in, or is eligible to participate in, the
2174 Senior Management Service Optional Annuity Program as
2175 established under s. 121.055(6), the State Community College

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2176 System Optional Retirement Program as established under s.
 2177 121.051(2)(c), or the State University System Optional
 2178 Retirement Program established under s. 121.35.

2179
 2180 The term does not include any member participating in the
 2181 Deferred Retirement Option Program established under s.
 2182 121.091(13), a retiree of a state-administered retirement system
 2183 initially reemployed on or after July 1, 2010, or a mandatory
 2184 member participant of the State University System Optional
 2185 Retirement Program established under s. 121.35.

2186 (h) "Employer" means an employer, as defined in s. 121.021,
 2187 of an eligible employee.

2188 (i) "Investment plan" means the Florida Retirement System
 2189 Investment Plan, a defined contribution program established
 2190 under this part.

2191 (j) "Local employer" means an employer that is not a state
 2192 employer or a district school board employer.

2193 ~~(i) "Optional retirement program" or "optional program"~~
 2194 ~~means the Public Employee Optional Retirement Program~~
 2195 ~~established under this part.~~

2196 (k) ~~(j)~~ "Member Participant" means an eligible employee who
 2197 is enrolled enrolls in the investment plan optional program as
 2198 provided in subsection (4) or a terminated Deferred Retirement
 2199 Option Program participant as described in subsection (21).

2200 (l) "Pension plan" means the defined benefit program of the
 2201 Florida Retirement System administered under part I of this
 2202 chapter.

2203 (m) ~~(k)~~ "Retiree" means a former member participant of the
 2204 investment plan optional retirement program who has terminated

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2205 employment and has taken a distribution as provided in s.
2206 121.591, except for a mandatory distribution of a de minimis
2207 account authorized by the state board.

2208 (n) "State employer" means an agency, board, branch,
2209 commission, community college, department, institution,
2210 institution of higher education, or water management district
2211 that participates in the Florida Retirement System for the
2212 benefit of certain employees.

2213 (o) ~~(l)~~ "Vested" or "vesting" means the guarantee that a
2214 member ~~participant~~ is eligible to receive a retirement benefit
2215 upon completion of the required years of service under the
2216 investment plan ~~optional retirement program~~.

2217 (3) ELIGIBILITY; RETIREMENT SERVICE CREDIT; TRANSFER OF
2218 BENEFITS.—

2219 ~~(a) Participation in the Public Employee Optional~~
2220 ~~Retirement Program is limited to eligible employees.~~
2221 ~~Participation in the optional retirement program is in lieu of~~
2222 ~~participation in the defined benefit program of the Florida~~
2223 ~~Retirement System.~~

2224 (a) ~~(b)~~ An eligible employee who is employed in a regularly
2225 established position by a state employer on June 1, 2002; by a
2226 district school board employer on September 1, 2002; or by a
2227 local employer on December 1, 2002, and who is a member of the
2228 pension plan ~~defined benefit retirement program of the Florida~~
2229 Retirement System at the time of his or her election to enroll
2230 ~~participate~~ in the investment plan ~~Public Employee Optional~~
2231 ~~Retirement Program~~ shall retain all retirement service credit
2232 earned under the pension plan ~~defined benefit retirement program~~
2233 of the Florida Retirement System as credited under the Florida

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2234 Retirement System and is ~~shall be~~ entitled to a deferred benefit
2235 upon termination, ~~if eligible under the system~~. However,
2236 election to enroll ~~participate~~ in the investment plan ~~Public~~
2237 ~~Employee Optional Retirement Program~~ terminates the active
2238 membership of the employee in the pension plan ~~defined benefit~~
2239 ~~program of the Florida Retirement System~~, and the service of a
2240 member of participant ~~in the investment plan~~ is ~~Public Employee~~
2241 ~~Optional Retirement Program~~ shall not be creditable under the
2242 pension plan ~~defined benefit retirement program of the Florida~~
2243 ~~Retirement System~~ for purposes of benefit accrual but is
2244 creditable ~~shall be credited~~ for purposes of vesting.

2245 (b)(e)1. Notwithstanding paragraph (a), ~~an (b)~~, each
2246 eligible employee who elects to enroll ~~participate~~ in the
2247 investment plan ~~Public Employee Optional Retirement Program~~ and
2248 establishes one or more individual member participant accounts
2249 ~~under the optional program~~ may elect to transfer to the
2250 investment plan ~~optional program~~ a sum representing the present
2251 value of the employee's accumulated benefit obligation under the
2252 pension plan ~~defined benefit retirement program of the Florida~~
2253 ~~Retirement System~~. Upon ~~such~~ transfer, all service credit
2254 ~~previously~~ earned under the pension plan ~~defined benefit~~
2255 ~~program of the Florida Retirement System~~ shall be nullified for
2256 purposes of entitlement to a future benefit under the pension
2257 plan ~~defined benefit program of the Florida Retirement System~~. A
2258 member may not transfer participant ~~is precluded from~~
2259 ~~transferring~~ the accumulated benefit obligation balance from the
2260 pension plan ~~after the time defined benefit program upon the~~
2261 ~~expiration of the period~~ for enrolling ~~afforded to enroll~~ in the
2262 investment plan ~~optional program~~.

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2263 ~~1.2.~~ For purposes of this subsection, the present value of
2264 the member's accumulated benefit obligation is based upon the
2265 member's estimated creditable service and estimated average
2266 final compensation under the pension plan ~~defined benefit~~
2267 program, subject to recomputation under subparagraph 2. 3. ~~3.~~ For
2268 state employees ~~enrolling under subparagraph (4)(a)1.~~, initial
2269 estimates shall ~~will~~ be based upon creditable service and
2270 average final compensation as of midnight on June 30, 2002; for
2271 district school board employees ~~enrolling under subparagraph~~
2272 ~~(4)(b)1.~~, initial estimates shall ~~will~~ be based upon creditable
2273 service and average final compensation as of midnight on
2274 September 30, 2002; and for local government employees ~~enrolling~~
2275 ~~under subparagraph (4)(c)1.~~, initial estimates shall ~~will~~ be
2276 based upon creditable service and average final compensation as
2277 of midnight on December 31, 2002. The dates ~~respectively~~
2278 specified are above ~~shall be construed as~~ the "estimate date"
2279 for these employees. The actuarial present value of the
2280 employee's accumulated benefit obligation shall be based on the
2281 following:

2282 a. The discount rate and other relevant actuarial
2283 assumptions used to value the Florida Retirement System Trust
2284 Fund at the time the amount to be transferred is determined,
2285 consistent with the factors provided in sub-subparagraphs b. and
2286 c.

2287 b. A benefit commencement age, based on the member's
2288 estimated creditable service as of the estimate date. The
2289 benefit commencement age is ~~shall be~~ the younger of the
2290 following, but may ~~shall~~ not be younger than the member's age as
2291 of the estimate date:

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2292 (I) Age 62; or

2293 (II) The age the member would attain if the member
2294 completed 30 years of service with an employer, assuming the
2295 member worked continuously from the estimate date, and
2296 disregarding any vesting requirement that would otherwise apply
2297 under the pension plan ~~defined benefit program of the Florida~~
2298 ~~Retirement System.~~

2299 c. For members of the Special Risk Class, and for members
2300 of the Special Risk Administrative Support Class entitled to
2301 retain the special risk normal retirement date, the benefit
2302 commencement age is ~~shall be~~ the younger of the following, but
2303 may ~~shall~~ not be younger than the member's age as of the
2304 estimate date:

2305 (I) Age 55; or

2306 (II) The age the member would attain if the member
2307 completed 25 years of service with an employer, assuming the
2308 member worked continuously from the estimate date, and
2309 disregarding any vesting requirement that would otherwise apply
2310 under the pension plan ~~defined benefit program of the Florida~~
2311 ~~Retirement System.~~

2312 d. The calculation must ~~shall~~ disregard vesting
2313 requirements and early retirement reduction factors that would
2314 otherwise apply under the pension plan ~~defined benefit~~
2315 ~~retirement program.~~

2316 ~~2.3.~~ For each member ~~participant~~ who elects to transfer
2317 moneys from the pension plan ~~defined benefit program~~ to his or
2318 her account in the investment plan ~~optional program~~, the
2319 division shall recompute the amount transferred under
2320 subparagraph 1. ~~within 2.~~ ~~not later than~~ 60 days after the

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2321 actual transfer of funds based upon the member's ~~participant's~~
2322 actual creditable service and actual final average compensation
2323 as of the initial date of participation in the investment plan
2324 ~~optional program~~. If the recomputed amount differs from the
2325 amount transferred ~~under subparagraph 2.~~ by \$10 or more, the
2326 division shall:

2327 a. Transfer, or cause to be transferred, from the Florida
2328 Retirement System Trust Fund to the member's ~~participant's~~
2329 account ~~in the optional program~~ the excess, if any, of the
2330 recomputed amount over the previously transferred amount
2331 together with interest from the initial date of transfer to the
2332 date of transfer under this subparagraph, based upon the
2333 effective annual interest equal to the assumed return on the
2334 actuarial investment which was used in the most recent actuarial
2335 valuation of the system, compounded annually.

2336 b. Transfer, or cause to be transferred, from the member's
2337 ~~participant's~~ account to the Florida Retirement System Trust
2338 Fund the excess, if any, of the previously transferred amount
2339 over the recomputed amount, together with interest from the
2340 initial date of transfer to the date of transfer under this
2341 subparagraph, based upon 6 percent effective annual interest,
2342 compounded annually, pro rata based on the member's
2343 ~~participant's~~ allocation plan.

2344 3. If contribution adjustments are made as a result of
2345 employer errors or corrections, including plan corrections,
2346 following recomputation of the amount transferred under
2347 subparagraph 1., the member is entitled to the additional
2348 contributions or is responsible for returning any excess
2349 contributions resulting from the correction if the return of

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2350 such contributions by the plan is made within 1 year after the
2351 making of the erroneous contributions or such other period
2352 allowed by applicable Internal Revenue Service guidance. The
2353 present value of the member's accumulated benefit obligation may
2354 not be recalculated.

2355 4. As directed by the member participant, the state board
2356 shall transfer or cause to be transferred the appropriate
2357 amounts to the designated accounts within. ~~The board shall~~
2358 ~~establish transfer procedures by rule, but the actual transfer~~
2359 ~~shall not be later than~~ 30 days after the effective date of the
2360 member's participation in the investment plan optional program
2361 unless the major financial markets for securities available for
2362 a transfer are seriously disrupted by an unforeseen event that
2363 ~~which also~~ causes the suspension of trading on any national
2364 securities exchange in the country where the securities are were
2365 issued. In that event, the such 30-day period ~~of time~~ may be
2366 extended by a resolution of the state board trustees. The state
2367 board shall establish transfer procedures by rule. Transfers are
2368 not commissionable or subject to other fees and may be in the
2369 form of securities or cash, as determined by the state board.
2370 Such securities are shall be valued as of the date of receipt in
2371 the member's participant's account.

2372 5. If the state board or the division receives notification
2373 from the United States Internal Revenue Service that this
2374 paragraph or any portion of this paragraph will cause the
2375 retirement system, or a portion thereof, to be disqualified for
2376 tax purposes under the Internal Revenue Code, ~~then~~ the portion
2377 that will cause the disqualification does not apply. Upon such
2378 notice, the state board and the division shall notify the

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2379 presiding officers of the Legislature.

2380 (4) PARTICIPATION; ENROLLMENT.—

2381 (a)~~1~~. With respect to an eligible employee who is employed
2382 in a regularly established position by a state employer after on
2383 June 1, 2002; by a district school board employer after
2384 September 1, 2002; or by a local employer after December 1,
2385 2002, but before July 1, 2011, the, by a state employer:

2386 ~~a. Any such employee may elect to participate in the Public~~
2387 ~~Employee Optional Retirement Program in lieu of retaining his or~~
2388 ~~her membership in the defined benefit program of the Florida~~
2389 ~~Retirement System. The election must be made in writing or by~~
2390 ~~electronic means and must be filed with the third party~~
2391 ~~administrator by August 31, 2002, or, in the case of an active~~
2392 ~~employee who is on a leave of absence on April 1, 2002, by the~~
2393 ~~last business day of the 5th month following the month the leave~~
2394 ~~of absence concludes. This election is irrevocable, except as~~
2395 ~~provided in paragraph (c). Upon making such election, the~~
2396 ~~employee shall be enrolled as a participant of the Public~~
2397 ~~Employee Optional Retirement Program, the employee's membership~~
2398 ~~in the Florida Retirement System shall be governed by the~~
2399 ~~provisions of this part, and the employee's membership in the~~
2400 ~~defined benefit program of the Florida Retirement System shall~~
2401 ~~terminate. The employee's enrollment in the Public Employee~~
2402 ~~Optional Retirement Program shall be effective the first day of~~
2403 ~~the month for which a full month's employer contribution is made~~
2404 ~~to the optional program.~~

2405 ~~b. Any such employee who fails to elect to participate in~~
2406 ~~the Public Employee Optional Retirement Program within the~~
2407 ~~prescribed time period is deemed to have elected to retain~~

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2408 ~~membership in the defined benefit program of the Florida~~
2409 ~~Retirement System, and the employee's option to elect to~~
2410 ~~participate in the optional program is forfeited.~~

2411 ~~2. With respect to employees who become eligible to~~
2412 ~~participate in the Public Employee Optional Retirement Program~~
2413 ~~by reason of employment in a regularly established position with~~
2414 ~~a state employer commencing after April 1, 2002:~~

2415 ~~a. Any such~~ employee shall, by default, be enrolled in the
2416 pension plan defined benefit retirement program of the Florida
2417 ~~Retirement System~~ at the commencement of employment, and may, by
2418 the last business day of the 5th month following the employee's
2419 month of hire, elect to enroll ~~participate~~ in the investment
2420 plan ~~Public Employee Optional Retirement Program~~. The employee's
2421 election must be made in writing or by electronic means and must
2422 be filed with the third-party administrator. The election to
2423 enroll ~~participate~~ in the investment plan ~~optional program~~ is
2424 irrevocable, except as provided in paragraph (e).

2425 ~~1.b.~~ If the employee files such election within the
2426 prescribed time period, enrollment in the investment plan is
2427 ~~optional program shall be~~ effective on the first day of
2428 employment. The employer and employee ~~retirement~~ contributions
2429 paid through the month of the employee plan change shall be
2430 transferred to the investment plan ~~optional program~~, and,
2431 effective the first day of the next month, the employer and
2432 employee must ~~shall~~ pay the applicable contributions based on
2433 the employee membership class in the plan ~~optional program~~.

2434 ~~2.c.~~ ~~An Any such~~ employee who fails to elect to enroll
2435 ~~participate~~ in the investment plan ~~Public Employee Optional~~
2436 ~~Retirement Program~~ within the prescribed time period is deemed

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2437 to have elected to retain membership in the pension plan ~~defined~~
2438 ~~benefit program of the Florida Retirement System~~, and the
2439 employee's option to elect to enroll ~~participate~~ in the
2440 investment plan ~~optional program~~ is forfeited.

2441 3. With respect to employees who become eligible to enroll
2442 ~~participate~~ in the investment plan ~~Public Employee Optional~~
2443 ~~Retirement Program~~ pursuant to s. 121.051(2)(c)3. or s.
2444 121.35(3)(i), the any such employee may elect to enroll
2445 ~~participate~~ in the investment plan ~~Public Employee Optional~~
2446 ~~Retirement Program~~ in lieu of retaining his or her participation
2447 in the State Community College System Optional Retirement
2448 Program or the State University System Optional Retirement
2449 Program. The election must be made in writing or by electronic
2450 means and must be filed with the third-party administrator. This
2451 election is irrevocable, except as provided in paragraph (e).
2452 Upon making such election, the employee shall be enrolled in as
2453 ~~a participant of the investment plan~~ ~~Public Employee Optional~~
2454 ~~Retirement Program~~, the employee's membership in the Florida
2455 Retirement System shall be governed by the provisions of this
2456 part, and the employee's participation in the State Community
2457 College System Optional Retirement Program or the State
2458 University System Optional Retirement Program shall terminate.
2459 The employee's enrollment in the investment plan ~~is~~ ~~Public~~
2460 ~~Employee Optional Retirement Program~~ shall be effective on the
2461 first day of the month for which a full month's employer
2462 employee contributions are ~~contribution is~~ made to the
2463 investment plan ~~optional program~~.

2464 4. ~~For purposes of this paragraph, "state employer" means~~
2465 ~~any agency, board, branch, commission, community college,~~

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2466 ~~department, institution, institution of higher education, or~~
2467 ~~water management district of the state, which participates in~~
2468 ~~the Florida Retirement System for the benefit of certain~~
2469 ~~employees.~~

2470 ~~(b)1. With respect to an eligible employee who is employed~~
2471 ~~in a regularly established position on September 1, 2002, by a~~
2472 ~~district school board employer:~~

2473 ~~a. Any such employee may elect to participate in the Public~~
2474 ~~Employee Optional Retirement Program in lieu of retaining his or~~
2475 ~~her membership in the defined benefit program of the Florida~~
2476 ~~Retirement System. The election must be made in writing or by~~
2477 ~~electronic means and must be filed with the third party~~
2478 ~~administrator by November 30, or, in the case of an active~~
2479 ~~employee who is on a leave of absence on July 1, 2002, by the~~
2480 ~~last business day of the 5th month following the month the leave~~
2481 ~~of absence concludes. This election is irrevocable, except as~~
2482 ~~provided in paragraph (c). Upon making such election, the~~
2483 ~~employee shall be enrolled as a participant of the Public~~
2484 ~~Employee Optional Retirement Program, the employee's membership~~
2485 ~~in the Florida Retirement System shall be governed by the~~
2486 ~~provisions of this part, and the employee's membership in the~~
2487 ~~defined benefit program of the Florida Retirement System shall~~
2488 ~~terminate. The employee's enrollment in the Public Employee~~
2489 ~~Optional Retirement Program shall be effective the first day of~~
2490 ~~the month for which a full month's employer contribution is made~~
2491 ~~to the optional program.~~

2492 ~~b. Any such employee who fails to elect to participate in~~
2493 ~~the Public Employee Optional Retirement Program within the~~
2494 ~~prescribed time period is deemed to have elected to retain~~

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2495 ~~membership in the defined benefit program of the Florida~~
2496 ~~Retirement System, and the employee's option to elect to~~
2497 ~~participate in the optional program is forfeited.~~

2498 ~~2. With respect to employees who become eligible to~~
2499 ~~participate in the Public Employee Optional Retirement Program~~
2500 ~~by reason of employment in a regularly established position with~~
2501 ~~a district school board employer commencing after July 1, 2002:~~

2502 ~~a. Any such employee shall, by default, be enrolled in the~~
2503 ~~defined benefit retirement program of the Florida Retirement~~
2504 ~~System at the commencement of employment, and may, by the last~~
2505 ~~business day of the 5th month following the employee's month of~~
2506 ~~hire, elect to participate in the Public Employee Optional~~
2507 ~~Retirement Program. The employee's election must be made in~~
2508 ~~writing or by electronic means and must be filed with the third-~~
2509 ~~party administrator. The election to participate in the optional~~
2510 ~~program is irrevocable, except as provided in paragraph (c).~~

2511 ~~b. If the employee files such election within the~~
2512 ~~prescribed time period, enrollment in the optional program shall~~
2513 ~~be effective on the first day of employment. The employer~~
2514 ~~retirement contributions paid through the month of the employee~~
2515 ~~plan change shall be transferred to the optional program, and,~~
2516 ~~effective the first day of the next month, the employer shall~~
2517 ~~pay the applicable contributions based on the employee~~
2518 ~~membership class in the optional program.~~

2519 ~~e. Any such employee who fails to elect to participate in~~
2520 ~~the Public Employee Optional Retirement Program within the~~
2521 ~~prescribed time period is deemed to have elected to retain~~
2522 ~~membership in the defined benefit program of the Florida~~
2523 ~~Retirement System, and the employee's option to elect to~~

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2524 ~~participate in the optional program is forfeited.~~

2525 ~~3. For purposes of this paragraph, "district school board~~
2526 ~~employer" means any district school board that participates in~~
2527 ~~the Florida Retirement System for the benefit of certain~~
2528 ~~employees, or a charter school or charter technical career~~
2529 ~~center that participates in the Florida Retirement System as~~
2530 ~~provided in s. 121.051(2) (d).~~

2531 ~~(c)1. With respect to an eligible employee who is employed~~
2532 ~~in a regularly established position on December 1, 2002, by a~~
2533 ~~local employer:~~

2534 ~~a. Any such employee may elect to participate in the Public~~
2535 ~~Employee Optional Retirement Program in lieu of retaining his or~~
2536 ~~her membership in the defined benefit program of the Florida~~
2537 ~~Retirement System. The election must be made in writing or by~~
2538 ~~electronic means and must be filed with the third-party~~
2539 ~~administrator by February 28, 2003, or, in the case of an active~~
2540 ~~employee who is on a leave of absence on October 1, 2002, by the~~
2541 ~~last business day of the 5th month following the month the leave~~
2542 ~~of absence concludes. This election is irrevocable, except as~~
2543 ~~provided in paragraph (c). Upon making such election, the~~
2544 ~~employee shall be enrolled as a participant of the Public~~
2545 ~~Employee Optional Retirement Program, the employee's membership~~
2546 ~~in the Florida Retirement System shall be governed by the~~
2547 ~~provisions of this part, and the employee's membership in the~~
2548 ~~defined benefit program of the Florida Retirement System shall~~
2549 ~~terminate. The employee's enrollment in the Public Employee~~
2550 ~~Optional Retirement Program shall be effective the first day of~~
2551 ~~the month for which a full month's employer contribution is made~~
2552 ~~to the optional program.~~

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2553 ~~b. Any such employee who fails to elect to participate in~~
2554 ~~the Public Employee Optional Retirement Program within the~~
2555 ~~prescribed time period is deemed to have elected to retain~~
2556 ~~membership in the defined benefit program of the Florida~~
2557 ~~Retirement System, and the employee's option to elect to~~
2558 ~~participate in the optional program is forfeited.~~

2559 ~~2. With respect to employees who become eligible to~~
2560 ~~participate in the Public Employee Optional Retirement Program~~
2561 ~~by reason of employment in a regularly established position with~~
2562 ~~a local employer commencing after October 1, 2002:~~

2563 ~~a. Any such employee shall, by default, be enrolled in the~~
2564 ~~defined benefit retirement program of the Florida Retirement~~
2565 ~~System at the commencement of employment, and may, by the last~~
2566 ~~business day of the 5th month following the employee's month of~~
2567 ~~hire, elect to participate in the Public Employee Optional~~
2568 ~~Retirement Program. The employee's election must be made in~~
2569 ~~writing or by electronic means and must be filed with the third-~~
2570 ~~party administrator. The election to participate in the optional~~
2571 ~~program is irrevocable, except as provided in paragraph (c).~~

2572 ~~b. If the employee files such election within the~~
2573 ~~prescribed time period, enrollment in the optional program shall~~
2574 ~~be effective on the first day of employment. The employer~~
2575 ~~retirement contributions paid through the month of the employee~~
2576 ~~plan change shall be transferred to the optional program, and,~~
2577 ~~effective the first day of the next month, the employer shall~~
2578 ~~pay the applicable contributions based on the employee~~
2579 ~~membership class in the optional program.~~

2580 ~~e. Any such employee who fails to elect to participate in~~
2581 ~~the Public Employee Optional Retirement Program within the~~

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2582 ~~prescribed time period is deemed to have elected to retain~~
2583 ~~membership in the defined benefit program of the Florida~~
2584 ~~Retirement System, and the employee's option to elect to~~
2585 ~~participate in the optional program is forfeited.~~

2586 ~~3. For purposes of this paragraph, "local employer" means~~
2587 ~~any employer not included in paragraph (a) or paragraph (b).~~

2588 ~~(b) (d)~~ Contributions available for self-direction by a
2589 member participant who has not selected one or more specific
2590 investment products shall be allocated as prescribed by the
2591 state board. The third-party administrator shall notify the
2592 member any such participant at least quarterly that the member
2593 participant should take an affirmative action to make an asset
2594 allocation among the investment plan optional program products.

2595 (c) On or after July 1, 2011, a member of the pension plan
2596 who obtains a refund of employee contributions retains his or
2597 her prior plan choice upon return to employment in a regularly
2598 established position with a participating employer.

2599 (d) A member of the investment plan who takes a
2600 distribution of any contributions from his or her investment
2601 plan account is considered a retiree. Upon reemployment in a
2602 regularly established position with a participating employer,
2603 the member returns as a new hire and, if applicable, may
2604 participate in the Florida Retirement System.

2605 (e) After the period during which an eligible employee had
2606 the choice to elect the pension plan defined benefit program or
2607 the investment plan optional retirement program, or the month
2608 following the receipt of the eligible employee's plan election,
2609 if sooner, the employee shall have one opportunity, at the
2610 employee's discretion, to choose to move from the pension plan

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2611 ~~defined benefit program~~ to the investment plan optional
2612 ~~retirement program~~ or from the investment plan optional
2613 ~~retirement program~~ to the pension plan defined benefit program.
2614 Eligible employees may elect to move between Florida Retirement
2615 System programs only if they are earning service credit in an
2616 employer-employee relationship consistent with s.
2617 121.021(17)(b), excluding leaves of absence without pay.
2618 Effective July 1, 2005, such elections are effective on the
2619 first day of the month following the receipt of the election by
2620 the third-party administrator and are not subject to the
2621 requirements regarding an employer-employee relationship or
2622 receipt of contributions for the eligible employee in the
2623 effective month, except when the election is received by the
2624 third-party administrator. This paragraph is contingent upon
2625 receiving approval from the Internal Revenue Service to include
2626 ~~for including~~ the choice described herein within the programs
2627 offered by the Florida Retirement System.

2628 1. If the employee chooses to move to the investment plan
2629 ~~optional retirement program~~, the applicable provisions of
2630 subsection (3) this section shall govern the transfer.

2631 2. If the employee chooses to move to the pension plan
2632 ~~defined benefit program~~, the employee must transfer from his or
2633 her investment plan optional retirement program account, and
2634 from other employee moneys as necessary, a sum representing the
2635 present value of that employee's accumulated benefit obligation
2636 immediately following the time of such movement, determined
2637 assuming that attained service equals the sum of service in the
2638 pension plan defined benefit program and service in the
2639 investment plan optional retirement program. Benefit

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2640 commencement occurs on the first date the employee is eligible
2641 for unreduced benefits, using the discount rate and other
2642 relevant actuarial assumptions that were used to value the
2643 pension ~~defined benefit~~ plan liabilities in the most recent
2644 actuarial valuation. For any employee who, at the time of the
2645 second election, already maintains an accrued benefit amount in
2646 the pension plan ~~defined benefit program~~, the then-present value
2647 of the accrued benefit shall be deemed part of the required
2648 transfer amount. The division shall ensure that the transfer sum
2649 is prepared using a formula and methodology certified by an
2650 enrolled actuary. A refund of any employee contributions or
2651 additional employee payments which exceed the employee
2652 contributions that would have accrued had the employee remained
2653 in the pension plan and not transferred to the investment plan
2654 is not permitted.

2655 3. Notwithstanding subparagraph 2., an employee who chooses
2656 to move to the pension plan ~~defined benefit program~~ and who
2657 ~~became eligible to participate in the optional retirement~~
2658 ~~program by reason of employment in a regularly established~~
2659 ~~position with a state employer after June 1, 2002; a district~~
2660 ~~school board employer after September 1, 2002; or a local~~
2661 ~~employer after December 1, 2002,~~ must transfer from his or her
2662 investment plan ~~optional retirement program~~ account, and from
2663 other employee moneys as necessary, a sum representing the
2664 employee's actuarial accrued liability. A refund of any employee
2665 contributions or additional employee payments which exceed the
2666 employee contributions that would have accrued had the employee
2667 remained in the pension plan and not transferred to the
2668 investment plan is not permitted.

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2669 4. An employee's ability to transfer from the pension plan
2670 ~~defined benefit program~~ to the investment plan ~~optional~~
2671 ~~retirement program~~ pursuant to paragraphs (a) and (b) ~~(a)-(d)~~,
2672 and the ability of a current employee to have an option to later
2673 transfer back into the pension plan ~~defined benefit program~~
2674 under subparagraph 2., shall be deemed a significant system
2675 amendment. Pursuant to s. 121.031(4), any resulting unfunded
2676 liability arising from actual original transfers from the
2677 pension plan ~~defined benefit program~~ to the investment plan
2678 ~~optional program~~ must be amortized within 30 plan years as a
2679 separate unfunded actuarial base independent of the reserve
2680 stabilization mechanism defined in s. 121.031(3)(f). For the
2681 first 25 years, a direct amortization payment may not be
2682 calculated for this base. During this 25-year period, the
2683 separate base shall be used to offset the impact of employees
2684 exercising their second program election under this paragraph.
2685 It is the intent of the Legislature that the actuarial funded
2686 status of the pension plan ~~defined benefit program~~ not be
2687 affected by such second program elections in any significant
2688 manner, after due recognition of the separate unfunded actuarial
2689 base. Following the initial 25-year period, any remaining
2690 balance of the original separate base shall be amortized over
2691 the remaining 5 years of the required 30-year amortization
2692 period.

2693 5. If the employee chooses to transfer from the investment
2694 plan ~~optional retirement program~~ to the pension plan ~~defined~~
2695 ~~benefit program~~ and retains an excess account balance in the
2696 investment plan ~~optional program~~ after satisfying the buy-in
2697 requirements under this paragraph, the excess may not be

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2698 distributed until the member retires from the pension plan
2699 ~~defined benefit program~~. The excess account balance may be
2700 rolled over to the pension plan ~~defined benefit program~~ and used
2701 to purchase service credit or upgrade creditable service in that
2702 program.

2703 (f) On or after July 1, 2011, an employee in the pension
2704 plan who obtains a refund of employee contributions shall retain
2705 his or her prior plan choice upon return to employment in a
2706 regularly established position with an employer participating in
2707 the Florida Retirement System.

2708 (g) A member who terminates covered employment in the
2709 Florida Retirement System and takes a distribution of any
2710 contributions from his investment plan account is considered a
2711 retiree. Upon reemployment in a regularly established position
2712 with a covered employer, the retiree returns as a new hire and,
2713 if applicable, may participate in the Florida Retirement System.

2714 (5) CONTRIBUTIONS.—

2715 (a) The ~~Each~~ employer and employee shall make the required
2716 contributions to the investment plan based on a percentage of
2717 the employee's gross monthly compensation ~~contribute on behalf~~
2718 ~~of each participant in the Public Employee optional retirement~~
2719 ~~Program~~, as provided in part III of this chapter.

2720 (b) Employee contributions shall be paid on a pretax basis,
2721 as provided in s. 401 of the Internal Revenue Code. Such
2722 contributions may not exceed federal limitations. An employee is
2723 responsible for monitoring his or her individual contributions
2724 to ensure that he or she does not exceed the maximum deferral
2725 amounts permitted under the Internal Revenue Code. A employee's
2726 total contribution equals the sum of all amounts deducted from

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2727 the employee's salary by his or her employer in accordance with
2728 s. 121.71(2) and credited to his or her individual account in
2729 the investment plan, plus any earnings on such amounts and any
2730 contributions specified in paragraph (e).

2731 (c) The state board, acting as plan fiduciary, shall ensure
2732 that all plan assets are held in a trust, pursuant to s. 401 of
2733 the Internal Revenue Code. The fiduciary shall ensure that said
2734 contributions are allocated as follows:

2735 1. The employer and employee portion earmarked for member
2736 ~~participant~~ accounts shall be used to purchase interests in the
2737 appropriate investment vehicles ~~for the accounts of each~~
2738 ~~participant~~ as specified by the member participant, or in
2739 accordance with paragraph (4)(b) ~~(4)(d)~~.

2740 2. The employer portion earmarked for administrative and
2741 educational expenses shall be transferred to the state board.

2742 3. The employer portion earmarked for disability benefits
2743 shall be transferred to the department.

2744 ~~(d)(b)~~ Employers are responsible for notifying employees
2745 ~~participants~~ regarding maximum contribution levels authorized
2746 ~~permitted~~ under the Internal Revenue Code. If a member
2747 ~~participant~~ contributes to any other tax-deferred plan, he or
2748 she is responsible for ensuring that total contributions made to
2749 the investment plan ~~optional program~~ and to any other such plan
2750 do not exceed federally permitted maximums.

2751 ~~(e)(c)~~ The investment plan ~~Public Employee Optional~~
2752 ~~Retirement Program~~ may accept for deposit into member
2753 ~~participant~~ accounts contributions in the form of rollovers or
2754 direct trustee-to-trustee transfers by or on behalf of members
2755 ~~participants~~, reasonably determined by the state board to be

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2756 eligible for rollover or transfer to the investment plan
2757 ~~optional retirement program~~ pursuant to the Internal Revenue
2758 Code, if such contributions are made in accordance with rules ~~as~~
2759 ~~may be~~ adopted by the board. Such contributions must ~~shall~~ be
2760 accounted for in accordance with ~~any~~ applicable Internal Revenue
2761 Code requirements and rules of the state board.

2762 (6) VESTING REQUIREMENTS.—

2763 (a) A member is fully and immediately vested in all
2764 employee contributions paid to the investment plan as provided
2765 in s. 121.72(2), plus interest and earnings thereon and less
2766 investment fees and administrative charges.

2767 (b) ~~(a)~~1. With respect to employer contributions paid on
2768 behalf of a member of the participant to the investment plan
2769 ~~optional retirement program~~, plus interest and earnings thereon
2770 and less investment fees and administrative charges, a member
2771 who voluntarily elected to enroll in the investment plan before
2772 July 1, 2011, or an eligible employee initially enrolled in the
2773 Florida Retirement System before July 1, 2011, who has the
2774 option to voluntarily elect to enroll in the investment plan,
2775 ~~participant~~ is vested after completing 1 work year with an
2776 employer, including any service while the employee participant
2777 was a member of the pension plan defined benefit program or an
2778 optional retirement program authorized under s. 121.051(2)(c),
2779 ~~or~~ s. 121.055(6), or s. 121.35.

2780 2. With respect to employer contributions paid on behalf of
2781 the member of the investment plan, plus interest and earnings
2782 thereon and less investment fees and administrative charges, an
2783 employee initially enrolled in the Florida Retirement System on
2784 or after July 1, 2011, is vested according to the following

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- 2785 schedule:
- 2786 a. Prior to completion of 3 years of service.....0%
- 2787 b. Upon completion of 3 years of service.....40%
- 2788 c. Upon completion of 4 years of service.....80%
- 2789 d. Upon completion of 5 or more years of service.....100%

2790

2791 Years of service includes any service completed while the

2792 employee was a member of the pension plan or an optional

2793 retirement program authorized under s. 121.051(2)(c), s.

2794 121.055(6), or s. 121.35.

2795 ~~3.2-~~ If the member participant terminates employment before

2796 satisfying the vesting requirements, the nonvested accumulation

2797 must be transferred from the member's participant's accounts to

2798 the state board for deposit and investment by the state board in

2799 the suspense account created within the Florida Public Employee

2800 Optional Retirement System Investment Plan Program Trust Fund.

2801 If the terminated member participant is reemployed as an

2802 eligible employee within 5 years, the state board shall transfer

2803 to the member's participant's account any amount previously

2804 transferred from the member's participant's accounts to the

2805 suspense account, plus actual earnings on such amount while in

2806 the suspense account.

2807 ~~(c)(b)~~1. With respect to amounts transferred from the

2808 pension plan defined benefit program to the investment plan

2809 program, plus interest and earnings, and less investment fees

2810 and administrative charges, a member participant shall be vested

2811 in the employer amount transferred upon meeting the service

2812 requirements for the employee's participant's membership class

2813 as set forth in s. 121.021(29). The third-party administrator

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2814 shall account for such amounts for each member participant. The
2815 division shall notify the member participant and the third-party
2816 administrator when the member participant has satisfied the
2817 vesting period for Florida Retirement System purposes.

2818 2. If the member participant terminates employment before
2819 satisfying the vesting requirements, the nonvested employer
2820 accumulation must be transferred from the member's participant's
2821 accounts to the state board for deposit and investment by the
2822 state board in the suspense account created within the Florida
2823 Public Employee Optional Retirement System Investment Plan
2824 Program Trust Fund. If the terminated member participant is
2825 reemployed as an eligible employee within 5 years, the state
2826 board shall transfer to the member's participant's account any
2827 amount previously transferred from the member's participant's
2828 accounts to the suspense account, plus the actual earnings on
2829 such amount while in the suspense account.

2830 (d) ~~(e)~~ Any nonvested accumulations transferred from a
2831 member's participant's account to the state board's suspense
2832 account, including any accompanying services credit, shall be
2833 forfeited by the member participant if the member participant is
2834 not reemployed as an eligible employee within 5 years after
2835 termination.

2836 (e) If the member elects to receive any of his or her
2837 vested employer or employee contributions upon termination of
2838 employment as defined in s. 121.021, except for a mandatory
2839 distribution of a de minimis account authorized by the state
2840 board or a minimum required distribution provided by s.
2841 401(a)(9) of the Internal Revenue Code, the employee shall
2842 forfeit all nonvested employer contributions and accompanying

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2843 service credit paid on behalf of the employee to the investment
2844 plan.

2845 (7) BENEFITS.—Under the investment plan the normal
2846 retirement date is the date on which a member attains age 62 or
2847 completes 5 years of service, whichever occurs later. Plan
2848 benefits must ~~Public Employee Optional Retirement program:~~

2849 (a) ~~Benefits shall~~ Be provided in accordance with s. 401(a)
2850 of the Internal Revenue Code.

2851 (b) ~~Benefits shall~~ Accrue in individual accounts that are
2852 member-directed ~~participant-directed~~, portable, and funded by
2853 employer contributions and earnings thereon.

2854 (c) ~~Benefits shall~~ Be payable in accordance with ~~the~~
2855 ~~provisions of~~ s. 121.591.

2856 (8) ADMINISTRATION OF PLAN PROGRAM.—

2857 ~~(a)~~ The investment plan ~~optional retirement program~~ shall
2858 be administered by the state board and affected employers. The
2859 state board may require oaths, by affidavit or otherwise, and
2860 acknowledgments from persons in connection with the
2861 administration of its statutory duties and responsibilities for
2862 the plan ~~this program~~. An oath, by affidavit or otherwise, may
2863 not be required of an employee ~~participant~~ at the time of
2864 enrollment. For members enrolled before July 1, 2011,
2865 acknowledgment of an employee's election to enroll ~~participate~~
2866 in the plan ~~may program shall~~ be no greater than necessary to
2867 confirm the employee's election. The state board shall adopt
2868 rules to carry out its statutory duties with respect to
2869 administering the investment plan ~~optional retirement program~~,
2870 including ~~establishing~~ the roles and responsibilities of
2871 affected state, local government, and education-related

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2872 employers, the state board, the department, and third-party
2873 contractors. The department shall adopt rules necessary to
2874 administer the investment plan ~~optional program~~ in coordination
2875 with the pension plan ~~defined benefit program~~ and the disability
2876 benefits available under the investment plan ~~optional program~~.

2877 (a) ~~(b)~~1. The state board shall select and contract with a
2878 ~~one~~ third-party administrator to provide administrative services
2879 if those services cannot be competitively and contractually
2880 provided by the division ~~of Retirement within the Department of~~
2881 ~~Management Services~~. With the approval of the state board, the
2882 third-party administrator may subcontract ~~with other~~
2883 ~~organizations or individuals~~ to provide components of the
2884 administrative services. As a cost of administration, the state
2885 board may compensate ~~any~~ such contractor for its services, in
2886 accordance with the terms of the contract, as is deemed
2887 necessary or proper by the board. The third-party administrator
2888 may not be an approved provider or be affiliated with an
2889 approved provider.

2890 2. These administrative services may include, but are not
2891 limited to, enrollment of eligible employees, collection of
2892 employer and employee contributions, disbursement of ~~such~~
2893 contributions to approved providers in accordance with the
2894 allocation directions of members ~~participants~~; services relating
2895 to consolidated billing; individual and collective recordkeeping
2896 and accounting; asset purchase, control, and safekeeping; and
2897 direct disbursement of funds to and from the third-party
2898 administrator, the division, the state board, employers, plan
2899 members ~~participants~~, approved providers, and beneficiaries.
2900 This section does not prevent or prohibit a bundled provider

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2901 from providing any administrative or customer service, including
2902 accounting and administration of individual member ~~participant~~
2903 benefits and contributions; individual member ~~participant~~
2904 recordkeeping; asset purchase, control, and safekeeping; direct
2905 execution of the member's ~~participant's~~ instructions as to asset
2906 and contribution allocation; calculation of daily net asset
2907 values; direct access to member ~~participant~~ account information;
2908 or periodic reporting to members ~~participants~~, at least
2909 quarterly, on account balances and transactions, if these
2910 services are authorized by the state board as part of the
2911 contract.

2912 ~~(b)1.3.~~ The state board shall select and contract with one
2913 or more organizations to provide educational services. With
2914 approval of the state board, the organizations may subcontract
2915 ~~with other organizations or individuals~~ to provide components of
2916 the educational services. As a cost of administration, the state
2917 board may compensate any such contractor for its services in
2918 accordance with the terms of the contract, as is deemed
2919 necessary or proper by the board. The education organization may
2920 not be an approved provider or be affiliated with an approved
2921 provider.

2922 ~~2.4.~~ Educational services shall be designed by the state
2923 board and department to assist employers, eligible employees,
2924 members ~~participants~~, and beneficiaries in order to maintain
2925 compliance with United States Department of Labor regulations
2926 under s. 404(c) of the Employee Retirement Income Security Act
2927 of 1974, ~~and~~ to assist employees in understanding their ~~choice~~
2928 ~~of defined benefit or defined contribution~~ retirement program,
2929 and, if applicable, the choice between the pension plan and the

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2930 investment plan alternatives. Educational services include, but
2931 are not limited to, disseminating educational materials;
2932 providing retirement planning education; explaining the pension
2933 ~~differences between the defined benefit retirement plan and the~~
2934 investment defined contribution retirement plan; and offering
2935 financial planning guidance on matters such as investment
2936 diversification, investment risks, investment costs, and asset
2937 allocation. An approved provider may also provide educational
2938 information, including retirement planning and investment
2939 allocation information concerning its products and services.

2940 (c)1. In evaluating and selecting a third-party
2941 administrator, the state board shall establish criteria for
2942 evaluating ~~under which it shall consider~~ the relative
2943 capabilities and qualifications of each proposed administrator.
2944 In developing such criteria, the state board shall consider:

2945 a. The administrator's demonstrated experience in providing
2946 administrative services to public or private sector retirement
2947 systems.

2948 b. The administrator's demonstrated experience in providing
2949 daily valued recordkeeping for investment ~~to defined~~
2950 ~~contribution~~ plans.

2951 c. The administrator's ability and willingness to
2952 coordinate its activities with ~~the Florida Retirement System~~
2953 employers, the state board, and the division, and to supply to
2954 such employers, the board, and the division the information and
2955 data they require, including, but not limited to, monthly
2956 management reports, quarterly member participant reports, and ad
2957 hoc reports requested by the department or state board.

2958 d. The cost-effectiveness and levels of the administrative

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2959 services provided.

2960 e. The administrator's ability to interact with the members
2961 ~~participants~~, the employers, the state board, the division, and
2962 the providers; the means by which members ~~participants~~ may
2963 access account information, direct investment of contributions,
2964 make changes to their accounts, transfer moneys between
2965 available investment vehicles, and transfer moneys between
2966 investment products; and any fees that apply to such activities.

2967 f. Any other factor deemed necessary by the ~~Trustees of the~~
2968 state board ~~of Administration~~.

2969 2. In evaluating and selecting an educational provider, the
2970 state board shall establish criteria under which it shall
2971 consider the relative capabilities and qualifications of each
2972 proposed educational provider. In developing such criteria, the
2973 board shall consider:

2974 a. Demonstrated experience in providing educational
2975 services to public or private sector retirement systems.

2976 b. Ability and willingness to coordinate its activities
2977 with the ~~Florida Retirement System~~ employers, the state board,
2978 and the division, and to supply to such employers, the board,
2979 and the division the information and data they require,
2980 including, but not limited to, reports on educational contacts.

2981 c. The cost-effectiveness and levels of the educational
2982 services provided.

2983 d. Ability to provide educational services via different
2984 media, including, but not limited to, the Internet, personal
2985 contact, seminars, brochures, and newsletters.

2986 e. Any other factor deemed necessary by the ~~Trustees of the~~
2987 state board ~~of Administration~~.

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2988 3. The establishment of the criteria shall be solely within
2989 the discretion of the state board.

2990 (d) The state board shall develop the form and content of
2991 any contracts to be offered under the investment plan ~~Public~~
2992 ~~Employee Optional Retirement Program~~. In developing the ~~its~~
2993 contracts, the board shall ~~must~~ consider:

2994 1. The nature and extent of the rights and benefits to be
2995 afforded in relation to the ~~required~~ contributions required
2996 under the plan ~~program~~.

2997 2. The suitability of the rights and benefits provided ~~to~~
2998 ~~be afforded~~ and the interests of employers in the recruitment
2999 and retention of eligible employees.

3000 (e)1. The state board may contract ~~with any consultant~~ for
3001 professional services, including legal, consulting, accounting,
3002 and actuarial services, deemed necessary to implement and
3003 administer the investment plan ~~optional program by the Trustees~~
3004 ~~of the state board of Administration~~. The board may enter into a
3005 contract with one or more vendors to provide low-cost investment
3006 advice to members ~~participants~~, supplemental to education
3007 provided by the third-party administrator. All fees under ~~any~~
3008 such contract shall be paid by those members ~~participants~~ who
3009 choose to use the services of the vendor.

3010 2. The department may contract ~~with consultants~~ for
3011 professional services, including legal, consulting, accounting,
3012 and actuarial services, deemed necessary to implement and
3013 administer the investment plan ~~optional program~~ in coordination
3014 with the pension plan ~~defined benefit program of the Florida~~
3015 ~~Retirement System~~. The department, in coordination with the
3016 state board, may enter into a contract with the third-party

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3017 administrator in order to coordinate services common to the
3018 various programs within the Florida Retirement System.

3019 (f) The third-party administrator may ~~shall~~ not receive
3020 direct or indirect compensation from an approved provider,
3021 except as specifically provided for in the contract with the
3022 state board.

3023 (g) The state board shall receive and resolve member
3024 ~~participant~~ complaints against the investment plan program, the
3025 third-party administrator, or any plan program vendor or
3026 provider; shall resolve any conflict between the third-party
3027 administrator and an approved provider if such conflict
3028 threatens the implementation or administration of the plan
3029 ~~program~~ or the quality of services to employees; and may resolve
3030 any other conflicts. The third-party administrator shall retain
3031 all member participant records for at least 5 years for use in
3032 resolving any member participant conflicts. The state board, the
3033 third-party administrator, or a provider is not required to
3034 produce documentation or an audio recording to justify action
3035 taken with regard to a member participant if the action occurred
3036 5 or more years before the complaint is submitted to the ~~state~~
3037 board. It is presumed that all action taken 5 or more years
3038 before the complaint is submitted was taken at the request of
3039 the member participant and with the member's participant's full
3040 knowledge and consent. To overcome this presumption, the member
3041 ~~participant~~ must present documentary evidence or an audio
3042 recording demonstrating otherwise.

3043 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

3044 (a) The state board shall develop policy and procedures for
3045 selecting, evaluating, and monitoring the performance of

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3046 approved providers and investment products ~~to which employees~~
3047 ~~may direct retirement contributions~~ under the investment plan
3048 ~~program~~. In accordance with such policy and procedures, the
3049 state board shall designate and contract for a number of
3050 investment products as determined by the board. The board shall
3051 also select one or more bundled providers, each of which ~~whom~~
3052 may offer multiple investment options and related services, if
3053 ~~when~~ such ~~an~~ approach is determined by the board to provide
3054 ~~afford~~ value to the members ~~participants~~ otherwise not available
3055 through individual investment products. Each approved bundled
3056 provider may offer investment options that provide members
3057 ~~participants~~ with the opportunity to invest in each of the
3058 following asset classes, to be composed of individual options
3059 that represent ~~either~~ a single asset class or a combination
3060 thereof: money markets, United States fixed income, United
3061 States equities, and foreign stock. The state board shall review
3062 and manage all educational materials, contract terms, fee
3063 schedules, and other aspects of ~~the~~ approved provider
3064 relationships to ensure that no provider is unduly favored or
3065 penalized by virtue of its status within the investment plan.

3066 (b) The state board shall consider investment options or
3067 products it considers appropriate to give members ~~participants~~
3068 the opportunity to accumulate retirement benefits, subject to
3069 the following:

3070 1. The investment plan ~~Public Employee Optional Retirement~~
3071 ~~Program~~ must offer a diversified mix of low-cost investment
3072 products that span the risk-return spectrum and may include a
3073 guaranteed account as well as investment products, such as
3074 individually allocated guaranteed and variable annuities, which

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3075 meet the requirements of this subsection and combine the ability
3076 to accumulate investment returns with the option of receiving
3077 lifetime income consistent with the long-term retirement
3078 security of a pension plan and similar to the lifetime-income
3079 benefit provided by the Florida Retirement System.

3080 2. Investment options or products offered by ~~the group of~~
3081 approved providers may include mutual funds, group annuity
3082 contracts, individual retirement annuities, interests in trusts,
3083 collective trusts, separate accounts, and other such financial
3084 instruments, and ~~may include~~ products that give members
3085 ~~participants~~ the option of committing their contributions for an
3086 extended time period in an effort to obtain returns higher than
3087 those that could be obtained from investment products offering
3088 full liquidity.

3089 3. The state board may ~~shall~~ not contract with a any
3090 provider that imposes a front-end, back-end, contingent, or
3091 deferred sales charge, or any other fee that limits or restricts
3092 the ability of members ~~participants~~ to select any investment
3093 product available in the investment plan ~~optional program~~. This
3094 prohibition does not apply to fees or charges that are imposed
3095 on withdrawals from products that give members ~~participants~~ the
3096 option of committing ~~their~~ contributions for an extended time
3097 period in an effort to obtain returns higher than those that
3098 could be obtained from investment products offering full
3099 liquidity, provided that the product ~~in question~~, net of all
3100 fees and charges, produces material benefits relative to other
3101 comparable products in the plan ~~program~~ offering full liquidity.

3102 4. Fees or charges for insurance features, such as
3103 mortality and expense-risk charges, must be reasonable relative

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3104 to the benefits provided.

3105 (c) In evaluating and selecting approved providers and
3106 products, the state board shall establish criteria for
3107 evaluating ~~under which it shall consider~~ the relative
3108 capabilities and qualifications of each proposed provider
3109 company and product. In developing such criteria, the board
3110 shall consider the following to the extent such factors may be
3111 applied in connection with investment products, services, or
3112 providers:

3113 1. Experience in the United States providing retirement
3114 products and related financial services under investment ~~defined~~
3115 ~~contribution retirement~~ plans.

3116 2. Financial strength and stability as ~~which shall be~~
3117 evidenced by the highest ratings assigned by nationally
3118 recognized rating services when comparing proposed providers
3119 that are so rated.

3120 3. Intrastate and interstate portability of the product
3121 offered, including early withdrawal options.

3122 4. Compliance with the Internal Revenue Code.

3123 5. The cost-effectiveness of the product provided and the
3124 levels of service supporting the product relative to its
3125 benefits and its characteristics, including, ~~without limitation,~~
3126 the level of risk borne by the provider.

3127 6. The provider company's ability and willingness to
3128 coordinate its activities with Florida Retirement System
3129 employers, the department, and the state board, and to supply ~~to~~
3130 the ~~such~~ employers, the department, and the board with the
3131 information and data they require.

3132 7. The methods available to members ~~participants~~ to

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3133 interact with the provider company; the means by which members
3134 ~~participants~~ may access account information, direct investment
3135 of contributions, make changes to their accounts, transfer
3136 moneys between available investment vehicles, and transfer
3137 moneys between provider companies; and any fees that apply to
3138 such activities.

3139 8. The provider company's policies with respect to the
3140 transfer of individual account balances, contributions, and
3141 earnings thereon, both internally among investment products
3142 offered by the provider company and externally between approved
3143 providers, as well as any fees, charges, reductions, or
3144 penalties that may be applied.

3145 9. An evaluation of specific investment products, taking
3146 into account each product's experience in meeting its investment
3147 return objectives net of all related fees, expenses, and
3148 charges, including, but not limited to, investment management
3149 fees, loads, distribution and marketing fees, custody fees,
3150 recordkeeping fees, education fees, annuity expenses, and
3151 consulting fees.

3152 10. Organizational factors, including, but not limited to,
3153 financial solvency, organizational depth, and experience in
3154 providing institutional and retail investment services.

3155 (d) ~~By March 1, 2010,~~ The state board shall identify and
3156 offer at least one terror-free investment product that allocates
3157 its funds among securities not subject to divestiture as
3158 provided in s. 215.473 if the investment product is deemed by
3159 the board to be consistent with prudent investor standards. No
3160 person may bring a civil, criminal, or administrative action
3161 against an approved provider; the state board; or any employee,

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3162 officer, director, or trustee of such provider based upon the
3163 divestiture of any security or the offering of a terror-free
3164 investment product as specified in this paragraph.

3165 (e) As a condition of offering an ~~any~~ investment option or
3166 product in the investment plan ~~optional retirement program~~, the
3167 approved provider must agree to make the investment product or
3168 service available under the most beneficial terms offered to any
3169 other customer, subject to approval by the ~~Trustees of the state~~
3170 board ~~of Administration~~.

3171 (f) The state board shall regularly review the performance
3172 of each approved provider and product and related organizational
3173 factors to ensure continued compliance with established
3174 selection criteria and with board policy and procedures.
3175 Providers and products may be terminated subject to contract
3176 provisions. The state board shall adopt procedures to transfer
3177 account balances from terminated products or providers to other
3178 products or providers in the investment plan ~~optional program~~.

3179 (g)1. An approved provider shall comply with all applicable
3180 federal and state securities and insurance laws and regulations
3181 ~~applicable to the provider~~, as well as with the applicable rules
3182 and guidelines of the National Association of Securities Dealers
3183 which govern the ethical marketing of investment products. In
3184 furtherance of this mandate, an approved provider must agree in
3185 its contract with the state board to establish and maintain a
3186 compliance education and monitoring system to supervise the
3187 activities of all personnel who directly communicate with
3188 individual members ~~participants~~ and recommend investment
3189 products, which system is consistent with rules of the National
3190 Association of Securities Dealers.

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3191 2. Approved provider personnel who directly communicate
3192 with individual members ~~participants~~ and who recommend
3193 investment products shall make an independent and unbiased
3194 determination as to whether an investment product is suitable
3195 for a particular member ~~participant~~.

3196 3. The state board shall develop procedures to receive and
3197 resolve member ~~participant~~ complaints against a provider or
3198 approved provider personnel, and, if ~~when~~ appropriate, refer
3199 such complaints to the appropriate agency.

3200 4. Approved providers may not sell or in any way distribute
3201 any customer list or member ~~participant~~ identification
3202 information generated through their offering of products or
3203 services through the investment plan ~~optional retirement~~
3204 ~~program~~.

3205 (10) EDUCATION COMPONENT.—

3206 (a) The state board, in coordination with the department,
3207 shall provide ~~for~~ an education component for eligible employees
3208 ~~system members~~ in a manner consistent with ~~the provisions of~~
3209 this section. The education component must be available to
3210 eligible employees at least 90 days before ~~prior to~~ the
3211 beginning date of the election period for the employees of the
3212 respective types of employers.

3213 (b) The education component must provide eligible employees
3214 ~~system members~~ with impartial and balanced information about
3215 plan choices. The education component must involve multimedia
3216 formats. Plan Program ~~comparisons~~ must, to the greatest extent
3217 possible, be based upon the retirement income that different
3218 retirement programs may provide to the member ~~participant~~. The
3219 state board shall monitor the performance of the contract for

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3220 the education component to ensure that the program is conducted
3221 in accordance with the contract, applicable law, and the rules
3222 of the board.

3223 (c) The state board, in coordination with the department,
3224 shall provide for an initial and ongoing transfer education
3225 component to provide system members with information necessary
3226 to make informed plan choice decisions. The transfer education
3227 component must include, but is not limited to, information on:

3228 1. The amount of money available to a member to transfer to
3229 the investment plan ~~defined contribution program~~.

3230 2. The features of and differences between the pension plan
3231 ~~defined benefit program~~ and the investment plan ~~defined~~
3232 ~~contribution program~~, both generally and specifically, as those
3233 differences may affect the member.

3234 3. The expected benefit available if the member were to
3235 retire under each of the retirement programs, based on
3236 appropriate alternative sets of assumptions.

3237 4. The rate of return from investments in the investment
3238 plan ~~defined contribution program~~ and the period of time over
3239 which such rate of return must be achieved to equal or exceed
3240 the expected monthly benefit payable to the member under the
3241 pension plan ~~defined benefit program~~.

3242 5. The historical rates of return for the investment
3243 alternatives available in the investment plan ~~defined~~
3244 ~~contribution programs~~.

3245 6. The benefits and historical rates of return on
3246 investments available in a typical deferred compensation plan or
3247 a typical plan under s. 403(b) of the Internal Revenue Code for
3248 which the employee may be eligible.

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3249 7. The program choices available to employees of the State
3250 University System and the comparative benefits of each available
3251 program, if applicable.

3252 8. Payout options available in each of the retirement
3253 programs.

3254 (d) An ongoing education and communication component must
3255 provide eligible employees ~~system members~~ with information
3256 necessary to make informed decisions about choices within their
3257 retirement program ~~of membership~~ and in preparation for
3258 retirement. The component must include, but is not limited to,
3259 information concerning:

3260 1. Rights and conditions of membership.

3261 2. Benefit features within the program, options, and
3262 effects of certain decisions.

3263 3. Coordination of contributions and benefits with a
3264 deferred compensation plan under s. 457 or a plan under s.
3265 403(b) of the Internal Revenue Code.

3266 4. Significant program changes.

3267 5. Contribution rates and program funding status.

3268 6. Planning for retirement.

3269 (e) Descriptive materials must be prepared under the
3270 assumption that the employee is an unsophisticated investor, and
3271 all materials used in the education component must be approved
3272 by the state board before ~~prior to~~ dissemination.

3273 (f) The state board and the department shall also establish
3274 a communication component to provide program information to
3275 participating employers and the employers' personnel and payroll
3276 officers and to explain their respective responsibilities in
3277 conjunction with the retirement programs.

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3278 (g) Funding for education of new employees may reflect
3279 administrative costs to the investment plan ~~optional program~~ and
3280 the pension plan ~~defined benefit program~~.

3281 (h) Pursuant to paragraph (8)(a), all Florida Retirement
3282 System employers have an obligation to regularly communicate the
3283 existence of the two Florida Retirement System plans and the
3284 plan choice in the natural course of administering their
3285 personnel functions, using the educational materials supplied by
3286 the state board and the department ~~of Management Services~~.

3287 (11) MEMBER PARTICIPANT INFORMATION REQUIREMENTS.—The state
3288 board shall ensure that each member participant is provided a
3289 quarterly statement that accounts for employer and employee ~~the~~
3290 contributions made on behalf of the member ~~such participant~~; the
3291 interest and investment earnings thereon; and any fees,
3292 penalties, or other deductions that apply ~~thereto~~. At a minimum,
3293 such statements must:

3294 (a) Indicate the member's ~~participant's~~ investment options.

3295 (b) State the market value of the account at the close of
3296 the current quarter and previous quarter.

3297 (c) Show account gains and losses ~~for the period~~ and
3298 changes in account accumulation unit values for the quarter
3299 ~~period~~.

3300 (d) Itemize account contributions for the quarter.

3301 (e) Indicate any account changes due to adjustment of
3302 contribution levels, reallocation of contributions, balance
3303 transfers, or withdrawals.

3304 (f) Set forth any fees, charges, penalties, and deductions
3305 that apply to the account.

3306 (g) Indicate the amount of the account in which the member

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3307 ~~participant~~ is fully vested and the amount of the account in
3308 which the member ~~participant~~ is not vested.

3309 (h) Indicate each investment product's performance relative
3310 to an appropriate market benchmark.

3311
3312 The third-party administrator shall provide quarterly and annual
3313 summary reports to the state board and any other reports
3314 requested by the department or the board. In any solicitation or
3315 offer of coverage under the investment plan ~~an optional~~
3316 ~~retirement program~~, a provider company shall be governed by the
3317 contract readability provisions of s. 627.4145, notwithstanding
3318 s. 627.4145(6)(c). In addition, all descriptive materials must
3319 be prepared under the assumption that the member ~~participant~~ is
3320 an unsophisticated investor. Provider companies must maintain an
3321 internal system of quality assurance, have proven functional
3322 systems that are date-calculation compliant, and be subject to a
3323 due-diligence inquiry that proves their capacity and fitness to
3324 undertake service responsibilities.

3325 (12) ADVISORY COUNCIL TO PROVIDE ADVICE AND ASSISTANCE.—The
3326 Investment Advisory Council, created pursuant to s. 215.444,
3327 shall assist the state board in implementing and administering
3328 the investment plan ~~Public Employee Optional Retirement Program~~.
3329 ~~The Investment Advisory council, created pursuant to s. 215.444,~~
3330 shall review the state board's initial recommendations regarding
3331 the criteria to be used in selecting and evaluating approved
3332 providers and investment products. The council may provide
3333 comments on the recommendations to the board within 45 days
3334 after receiving the initial recommendations. The state board
3335 shall make the final determination as to whether any investment

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3336 provider or product, any contractor, or any and all contract
3337 provisions are ~~shall be~~ approved for the investment plan
3338 ~~program~~.

3339 (13) FEDERAL REQUIREMENTS.-

3340 (a) ~~Provisions of~~ This section shall be construed, and the
3341 investment plan ~~Public Employee Optional Retirement Program~~
3342 shall be administered, so as to comply with the Internal Revenue
3343 Code, 26 U.S.C., and specifically with plan qualification
3344 requirements imposed on governmental plans under s. 401(a) of
3345 the Internal Revenue Code. The state board ~~may shall have the~~
3346 ~~power and authority to~~ adopt rules reasonably necessary to
3347 establish or maintain the qualified status of the investment
3348 plan ~~Optional Retirement Program~~ under the Internal Revenue Code
3349 and to implement and administer the plan ~~Optional Retirement~~
3350 ~~Program~~ in compliance with the Internal Revenue Code and this
3351 part; ~~provided however, that~~ the board may ~~shall not have the~~
3352 ~~authority to~~ adopt any rule which makes a substantive change to
3353 the investment plan ~~Optional Retirement Program~~ as designed by
3354 this part.

3355 (b) Any section or provision of this chapter which is
3356 susceptible to more than one construction shall ~~must~~ be
3357 interpreted in favor of the construction most likely to satisfy
3358 requirements imposed by s. 401(a) of the Internal Revenue Code.

3359 (c) Employer and employee contributions payable under this
3360 section for any limitation year may not exceed the maximum
3361 amount allowable for qualified defined contribution ~~pension~~
3362 plans under applicable provisions of the Internal Revenue Code.
3363 If an employee who is enrolled ~~who has elected to participate~~ in
3364 the investment plan enrolls ~~Public Employee Optional Retirement~~

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3365 ~~Program~~ participates in any other plan that is maintained by the
3366 participating employer, benefits that accrue under the
3367 investment plan ~~Public Employee Optional Retirement Program~~
3368 ~~shall be~~ considered primary for any aggregate limitation
3369 applicable under s. 415 of the Internal Revenue Code.

3370 (14) INVESTMENT POLICY STATEMENT.—

3371 (a) Investment products and approved providers selected for
3372 the investment plan ~~Public Employee Optional Retirement Program~~
3373 must ~~shall~~ conform with the Florida Public Employee Optional
3374 Retirement System Program Investment Plan Policy Statement,
3375 herein referred to as the "statement," as developed and approved
3376 by the ~~Trustees of the~~ state board of Administration. The
3377 statement must include, among other items, the investment
3378 objectives of the investment plan ~~Public Employee Optional~~
3379 ~~Retirement Program~~, manager selection and monitoring guidelines,
3380 and performance measurement criteria. As required from time to
3381 time, the executive director of the state board may present
3382 recommended changes in the statement to the board for approval.

3383 (b) Before ~~Prior to~~ presenting the statement, or any
3384 recommended changes ~~thereto~~, to the state board, the executive
3385 director of the board shall present such statement or changes to
3386 the Investment Advisory Council for review. The council shall
3387 present the results of its review to the board prior to the
3388 board's final approval of the statement or changes in the
3389 statement.

3390 (15) STATEMENT OF FIDUCIARY STANDARDS AND
3391 RESPONSIBILITIES.—

3392 (a) Investment of investment plan ~~optional defined~~
3393 ~~contribution retirement plan~~ assets shall be made for the sole

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3394 interest and exclusive purpose of providing benefits to plan
3395 members ~~participants~~ and beneficiaries and defraying reasonable
3396 expenses of administering the plan. The program's assets shall
3397 ~~are to be invested,~~ on behalf of the members ~~program~~
3398 ~~participants,~~ with the care, skill, and diligence that a prudent
3399 person acting in a like manner would undertake. The performance
3400 of the investment duties set forth in this paragraph shall
3401 comply with the fiduciary standards set forth in the Employee
3402 Retirement Income Security Act of 1974 at 29 U.S.C. s.
3403 1104(a)(1)(A)-(C). In case of conflict with other provisions of
3404 law authorizing investments, the investment and fiduciary
3405 standards set forth in this subsection shall prevail.

3406 (b) If a member ~~participant~~ or beneficiary of the
3407 investment plan ~~Public Employee Optional Retirement program~~
3408 exercises control over the assets in his or her account, as
3409 determined by reference to regulations of the United States
3410 Department of Labor under s. 404(c) of the Employee Retirement
3411 Income Security Act of 1974 and all applicable laws governing
3412 the operation of the program, a ~~no~~ program fiduciary is not
3413 ~~shall be~~ liable for any loss to a member's ~~participant's~~ or
3414 beneficiary's account which results from the member's ~~such~~
3415 ~~participant's~~ or beneficiary's exercise of control.

3416 (c) Subparagraph (8)(b)2. ~~(8)(b)4.~~ and paragraph ~~(15)(b)~~
3417 incorporate the federal law concept of member ~~participant~~
3418 control, established by regulations of the United States
3419 Department of Labor under s. 404(c) of the Employee Retirement
3420 Income Security Act of 1974 (ERISA). The purpose of this
3421 paragraph is to assist employers and the state board ~~of~~
3422 ~~Administration~~ in maintaining compliance with s. 404(c), while

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3423 avoiding unnecessary costs and eroding member ~~participant~~
3424 benefits under the investment plan ~~Public Employee Optional~~
3425 ~~Retirement program~~. Pursuant to 29 C.F.R. s. 2550.404c-
3426 1(b)(2)(i)(B)(1)(viii), the state board of ~~Administration~~ or its
3427 designated agents shall deliver to members ~~participants~~ of the
3428 investment plan ~~Public Employee Optional Retirement program~~ a
3429 copy of the prospectus most recently provided to the plan, and,
3430 pursuant to 29 C.F.R. s. 2550.404c-1(b)(2)(i)(B)(2)(ii), shall
3431 provide such members ~~participants~~ an opportunity to obtain this
3432 information, except that:

3433 1. The requirement to deliver a prospectus shall be ~~deemed~~
3434 ~~to be~~ satisfied by delivery of a fund profile or summary profile
3435 that contains the information that would be included in a
3436 summary prospectus as described by Rule 498 under the Securities
3437 Act of 1933, 17 C.F.R. s. 230.498. If ~~When~~ the transaction fees,
3438 expense information, or other information provided by a mutual
3439 fund in the prospectus does not reflect terms negotiated by the
3440 state board of ~~Administration~~ or its designated agents, the
3441 ~~aforementioned~~ requirement is ~~deemed to be~~ satisfied by delivery
3442 of a separate document described by Rule 498 substituting
3443 accurate information; and

3444 2. Delivery shall be ~~deemed to have been~~ effected if
3445 delivery is through electronic means and the following standards
3446 are satisfied:

3447 a. Electronically-delivered documents are prepared and
3448 provided consistent with style, format, and content requirements
3449 applicable to printed documents;

3450 b. Each member ~~participant~~ is provided timely and adequate
3451 notice of the documents that are to be delivered and their

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3452 significance thereof, and of the member's ~~participant's~~ right to
3453 obtain a paper copy of such documents free of charge;

3454 c. ~~(I)~~ Members ~~Participants~~ have adequate access to the
3455 electronic documents, at locations such as their worksites or
3456 public facilities, and have the ability to convert the documents
3457 to paper free of charge by the state board ~~of Administration~~,
3458 and the board or its designated agents take appropriate and
3459 reasonable measures to ensure that the system for furnishing
3460 electronic documents results in actual receipt. ~~, or~~

3461 ~~(II)~~ Members ~~Participants~~ have provided consent to receive
3462 information in electronic format, which consent may be revoked;
3463 and

3464 d. The state board ~~of Administration~~, or its designated
3465 agent, actually provides paper copies of the documents free of
3466 charge, upon request.

3467 (16) DISABILITY BENEFITS.—For any member ~~participant~~ of the
3468 investment plan ~~optional retirement program~~ who becomes totally
3469 and permanently disabled, benefits must ~~shall~~ be paid in
3470 accordance with ~~the provisions of~~ s. 121.591.

3471 (17) SOCIAL SECURITY COVERAGE.—Social security coverage
3472 shall be provided for all officers and employees who become
3473 members ~~participants~~ of the investment plan ~~optional program~~.
3474 Any modification of the present agreement with the Social
3475 Security Administration, or referendum required under the Social
3476 Security Act, for the purpose of providing social security
3477 coverage for any member shall be requested by the state agency
3478 in compliance with the applicable provisions of the Social
3479 Security Act governing such coverage. However, retroactive
3480 social security coverage for service before ~~prior to~~ December 1,

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3481 1970, with the employer may ~~shall~~ not be provided for any member
3482 who was not covered under the agreement as of November 30, 1970.

3483 (18) RETIREE HEALTH INSURANCE SUBSIDY.—All officers and
3484 employees who are members ~~participants~~ of the investment plan
3485 are optional program ~~shall be~~ eligible to receive the retiree
3486 health insurance subsidy, subject to ~~the provisions of~~ s.
3487 112.363.

3488 (19) MEMBER PARTICIPANT RECORDS.—Personal identifying
3489 information of a member of participant ~~in the investment plan~~
3490 ~~Public Employee Optional Retirement Program~~ contained in Florida
3491 Retirement System records held by the state board ~~of~~
3492 ~~Administration~~ or the department ~~of Management Services~~ is
3493 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
3494 Constitution.

3495 (20) DESIGNATION OF BENEFICIARIES.—

3496 (a) Each member ~~participant~~ may, on a form provided for
3497 that purpose, signed and filed with the third-party
3498 administrator, designate a choice of one or more persons, named
3499 sequentially or jointly, as his or her beneficiary for receiving
3500 ~~who shall receive~~ the benefits, if any, which may be payable
3501 pursuant to this chapter in the event of the member's
3502 ~~participant's~~ death. If no beneficiary is named in this manner,
3503 or if no beneficiary designated by the member ~~participant~~
3504 survives the member ~~participant~~, the beneficiary shall be the
3505 spouse of the deceased, if living. If the member's ~~participant's~~
3506 spouse is not alive at the time of the beneficiary's ~~his or her~~
3507 death, the beneficiary shall be the member's living children ~~of~~
3508 ~~the participant~~. If no children survive, the beneficiary shall
3509 be the member's ~~participant's~~ father or mother, if living;

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3510 otherwise, the beneficiary shall be the member's participant's
3511 estate. The beneficiary most recently designated by a member
3512 ~~participant on a form or letter filed with the third-party~~
3513 ~~administrator~~ shall be the beneficiary entitled to any benefits
3514 payable at the time of the member's participant's death. However
3515 ~~Notwithstanding any other provision in this subsection to the~~
3516 ~~contrary, if a member for a participant who dies before prior to~~
3517 his or her effective date of retirement, the spouse at the time
3518 of death shall be the member's participant's beneficiary unless
3519 the member such participant designates a different beneficiary
3520 ~~as provided in this subsection~~ subsequent to the member's
3521 ~~participant's~~ most recent marriage.

3522 (b) If a member participant designates a primary
3523 beneficiary other than the member's participant's spouse, the
3524 member's participant's spouse must sign the beneficiary
3525 designation form to acknowledge the designation. This
3526 requirement does not apply to the designation of one or more
3527 contingent beneficiaries to receive benefits remaining upon the
3528 death of the primary beneficiary or beneficiaries.

3529 (c) Notwithstanding the member's participant's designation
3530 of benefits to be paid through a trust to a beneficiary that is
3531 a natural person, and ~~notwithstanding~~ the provisions of the
3532 trust, benefits must shall be paid directly to the beneficiary
3533 if the person is no longer a minor or an incapacitated person as
3534 defined in s. 744.102.

3535 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT OPTION
3536 PROGRAM PARTICIPANTS.—Notwithstanding any other provision of law
3537 ~~to the contrary~~, participants in the Deferred Retirement Option
3538 Program offered under part I may, after conclusion of their

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3539 participation in the program, elect to roll over or authorize a
3540 direct trustee-to-trustee transfer to an account under the
3541 investment plan ~~Public Employee Optional Retirement Program~~ of
3542 their Deferred Retirement Option Program proceeds distributed as
3543 provided under s. 121.091(13)(c)5. The transaction must
3544 constitute an "eligible rollover distribution" within the
3545 meaning of s. 402(c)(4) of the Internal Revenue Code.

3546 (a) The investment plan ~~Public Employee Optional Retirement~~
3547 ~~Program~~ may accept such amounts for deposit into member
3548 ~~participant~~ accounts as provided in paragraph (5)(e) ~~(5)(e)~~.

3549 (b) The affected participant shall direct the investment of
3550 his or her investment account; however, unless he or she becomes
3551 a renewed member of the Florida Retirement System under s.
3552 121.122 and elects to enroll ~~participate~~ in the investment plan
3553 ~~Public Employee Optional Retirement program~~, employer and
3554 employee contributions may not be made to the participant's
3555 account as provided under paragraph (5)(a).

3556 (c) The state board or the department is not responsible
3557 for locating those persons who may be eligible to enroll
3558 ~~participate~~ in the investment plan ~~Public Employee Optional~~
3559 ~~Retirement Program~~ under this subsection.

3560 (22) CREDIT FOR MILITARY SERVICE.—Creditable service of any
3561 member of the investment program includes ~~Public Employee~~
3562 ~~Optional Retirement Program~~ shall include military service in
3563 the Armed Forces of the United States as provided in ~~the~~
3564 ~~conditions outlined in~~ s. 121.111(1).

3565 Section 22. Section 121.4502, Florida Statutes, is amended
3566 to read:

3567 121.4502 Florida ~~Public Employee Optional Retirement System~~

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3568 Investment Plan Program Trust Fund.—

3569 (1) The Florida Public Employee Optional Retirement System
3570 Investment Plan Program Trust Fund is created to hold the assets
3571 of the Florida Public Employee Optional Retirement System
3572 Investment Plan Program in trust for the exclusive benefit of
3573 plan members ~~such program's participants~~ and beneficiaries, and
3574 for the payment of reasonable administrative expenses of the
3575 plan program, in accordance with s. 401 of the Internal Revenue
3576 Code, and shall be administered by the State Board of
3577 Administration as trustee. Funds shall be credited to the trust
3578 fund as provided in this part ~~and, to be~~ used for the purposes
3579 of this part. The trust fund is exempt from the service charges
3580 imposed by s. 215.20.

3581 (2) The Florida Public Employee Optional Retirement System
3582 Investment Plan Program Trust Fund is a ~~retirement~~ trust fund of
3583 the Florida Retirement System that accounts for retirement plan
3584 assets held by the state in a trustee capacity as a fiduciary
3585 for individual members ~~participants~~ in the Florida Public
3586 ~~Employee Optional Retirement System Investment Plan Program~~ and,
3587 pursuant to s. 19(f), Art. III of the State Constitution, is not
3588 subject to termination.

3589 Section 23. Subsections (1) and (3) of section 121.4503,
3590 Florida Statutes, are amended to read:

3591 121.4503 Florida Retirement System Contributions Clearing
3592 Trust Fund.—

3593 (1) The Florida Retirement System Contributions Clearing
3594 Trust Fund is created as a clearing fund for disbursing employer
3595 and employee contributions to the component plans of the Florida
3596 Retirement System and shall be administered by the department ~~of~~

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3597 ~~Management Services~~. Funds shall be credited to the trust fund
3598 as provided in this chapter and ~~shall be~~ held in trust for the
3599 contributing employers and employees until ~~such time as~~ the
3600 assets are transferred by the department to the Florida
3601 Retirement System Trust Fund, the Florida Public Employee
3602 ~~Optional Retirement System Investment Plan Program~~ Trust Fund,
3603 or other trust funds as authorized by law, to be used for the
3604 purposes of this chapter. The trust fund is exempt from the
3605 service charges imposed by s. 215.20.

3606 (3) The department ~~of Management Services~~ may adopt rules
3607 governing the receipt and disbursement of amounts received by
3608 the Florida Retirement System Contributions Clearing Trust Fund
3609 from employers and employees contributing to the component plans
3610 of the Florida Retirement System.

3611 Section 24. Section 121.571, Florida Statutes, is amended
3612 to read:

3613 121.571 Contributions.—Contributions to the Florida Public
3614 ~~Employee Optional Retirement System Investment Plan Program~~
3615 shall be made as follows:

3616 (1) CONTRIBUTORY NONCONTRIBUTORY PLAN.—Each employer and
3617 employee shall submit ~~accomplish the~~ contributions as required
3618 under by s. 121.71 ~~by a procedure in which no employee's gross~~
3619 ~~salary shall be reduced.~~

3620 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund the
3621 retirement and disability benefits provided under this part must
3622 ~~shall~~ be based on the uniform contribution rates established by
3623 s. 121.71 and on the membership class or subclass of the
3624 employee participant. Such contributions must ~~shall~~ be allocated
3625 as provided in ss. 121.72 and 121.73.

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3626 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR
3627 RETIREE HEALTH INSURANCE SUBSIDY.—Contributions required under
3628 s. 121.71 are ~~this section shall be~~ in addition to employer and
3629 member contributions ~~required~~ for social security and the
3630 Retiree Health Insurance Subsidy Trust Fund as required under
3631 ~~provided in~~ ss. 112.363, 121.052, 121.055, and 121.071, as
3632 appropriate.

3633 Section 25. Section 121.591, Florida Statutes, is amended
3634 to read:

3635 121.591 Payment of benefits payable under the Public
3636 ~~Employee Optional Retirement Program of the Florida Retirement~~
3637 ~~System.~~—Benefits may not be paid under the Florida Retirement
3638 System Investment Plan ~~this section~~ unless the member has
3639 terminated employment as provided in s. 121.021(39)(a) or is
3640 deceased and a proper application has been filed as in the
3641 ~~manner~~ prescribed by the state board or the department. The
3642 state board or department, as appropriate, may cancel an
3643 application for retirement benefits if when the member or
3644 beneficiary fails to timely provide the information and
3645 documents required by this chapter and the rules of the state
3646 board and department. In accordance with their respective
3647 responsibilities ~~as provided herein~~, the state board ~~of~~
3648 ~~Administration~~ and the department ~~of Management Services~~ shall
3649 adopt rules establishing procedures for application for
3650 retirement benefits and for the cancellation of such application
3651 if when the required information or documents are not received.
3652 The state board ~~of Administration~~ and the department ~~of~~
3653 ~~Management Services~~, as appropriate, are authorized to cash out
3654 a de minimis account of not more than \$5,000 of a member

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3655 ~~participant~~ who has been terminated from Florida Retirement
3656 System covered employment for a minimum of 6 calendar months. ~~A~~
3657 ~~de minimis account is an account containing employer~~
3658 ~~contributions and accumulated earnings of not more than \$5,000~~
3659 ~~made under the provisions of this chapter.~~ Such cash-out must
3660 ~~either~~ be a complete lump-sum liquidation of the account
3661 balance, subject to the provisions of the Internal Revenue Code,
3662 or a lump-sum direct rollover distribution paid directly to the
3663 custodian of an eligible retirement plan, as defined by the
3664 Internal Revenue Code, on behalf of the member participant. Any
3665 nonvested accumulations, including amounts transferred to the
3666 suspense account of the Florida Retirement System Investment
3667 Plan Trust Fund, are forfeited upon payment of any vested
3668 benefit to a member or beneficiary, except for de minimis
3669 distributions or minimum required distributions as provided
3670 under this section. If any financial instrument issued for the
3671 payment of retirement benefits under this section is not
3672 presented for payment within 180 days after the last day of the
3673 month in which it was originally issued, the third-party
3674 administrator or other duly authorized agent of the state board
3675 ~~of Administration~~ shall cancel the instrument and credit the
3676 amount of the instrument to the suspense account of the Florida
3677 Public Employee Optional Retirement System Investment Plan
3678 ~~Program~~ Trust Fund authorized under s. 121.4501(6). Any ~~such~~
3679 amounts transferred to the suspense account are payable upon a
3680 proper application, not to include earnings thereon, as provided
3681 in this section, within 10 years after the last day of the month
3682 in which the instrument was originally issued, after which time
3683 such amounts and any earnings attributable to employer

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3684 contributions are thereon shall be forfeited. Any ~~such~~ forfeited
3685 amounts are assets of the ~~Public Employee Optional Retirement~~
3686 ~~Program~~ trust fund and are not subject to the provisions of
3687 chapter 717.

3688 (1) NORMAL BENEFITS.—Under the Florida Public Employee
3689 ~~Optional Retirement System Investment Plan Program~~:

3690 (a) Benefits in the form of vested accumulations as
3691 described in s. 121.4501(6) are payable under this subsection in
3692 accordance with the following terms and conditions:

3693 1. ~~To the extent vested,~~ Benefits are payable only to a
3694 member, alternate payee or a qualified domestic relations order,
3695 or a beneficiary participant.

3696 2. Benefits shall be paid by the third-party administrator
3697 or designated approved providers in accordance with the law, the
3698 contracts, and any applicable board rule or policy.

3699 3. ~~To receive benefits,~~ The member participant must be
3700 terminated from all employment with all Florida Retirement
3701 System employers, as provided in s. 121.021(39).

3702 4. Benefit payments may not be made until the member
3703 ~~participant~~ has been terminated for 3 calendar months, except
3704 that the state board may authorize by rule for the distribution
3705 of up to 10 percent of the member's participant's account after
3706 being terminated for 1 calendar month if the member participant
3707 has reached the normal retirement date as defined in s. 121.021
3708 ~~of the defined benefit plan.~~

3709 5. If a member or former member of the Florida Retirement
3710 System receives an invalid distribution ~~from the Public Employee~~
3711 ~~Optional Retirement Program Trust Fund~~, such person must repay
3712 the full amount ~~invalid distribution to the trust fund~~ within 90

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3713 days after receipt of final notification by the state board or
3714 the third-party administrator that the distribution was invalid,
3715 or, in lieu of repayment, must terminate employment from all
3716 participating employers. If such person fails to repay the full
3717 invalid distribution within 90 days after receipt of final
3718 notification, the person may be deemed retired from the
3719 investment plan ~~optional retirement program~~ by the state board,
3720 ~~as provided pursuant to s. 121.4501(2)(k)~~, and is subject to s.
3721 121.122. If such person is deemed retired ~~by the state board~~,
3722 any joint and several liability set out in s. 121.091(9)(d)2. is
3723 ~~becomes~~ null and void, and the state board, the department, or
3724 the employing agency is not liable for gains on payroll
3725 contributions that have not been deposited to the person's
3726 account in the investment plan ~~retirement program~~, pending
3727 resolution of the invalid distribution. The member or former
3728 member who has been deemed retired or who has been determined by
3729 the state board to have taken an invalid distribution may appeal
3730 the agency decision through the complaint process as provided
3731 under s. 121.4501(9)(g)3. As used in this subparagraph, the term
3732 "invalid distribution" means any distribution from an account in
3733 the investment plan ~~optional retirement program~~ which is taken
3734 in violation of this section, s. 121.091(9), or s. 121.4501.

3735 (b) If a member ~~participant~~ elects to receive his or her
3736 benefits upon termination of employment as defined in s.
3737 121.021, the member ~~participant~~ must submit a written
3738 application or an application by electronic means to the third-
3739 party administrator indicating his or her preferred distribution
3740 date and selecting an authorized method of distribution as
3741 provided in paragraph (c). The member ~~participant~~ may defer

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3742 receipt of benefits until he or she chooses to make such
3743 application, subject to federal requirements.

3744 (c) Upon receipt by the third-party administrator of a
3745 properly executed application for distribution of benefits, the
3746 total accumulated benefit is ~~shall be~~ payable to the member
3747 participant, as:

3748 1. A lump-sum or partial distribution to the member
3749 participant;

3750 2. A lump-sum direct rollover distribution whereby all
3751 accrued benefits, plus interest and investment earnings, are
3752 paid from the member's participant's account directly to the
3753 custodian of an eligible retirement plan, as defined in s.
3754 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
3755 participant; or

3756 3. Periodic distributions, as authorized by the state
3757 board.

3758 (d) The distribution payment method selected by the plan
3759 member or beneficiary, and the retirement of the member or
3760 beneficiary, is final and irrevocable at the time a benefit
3761 distribution payment is cashed, deposited, or transferred to
3762 another financial institution. Any additional service that
3763 remains unclaimed at retirement may not be claimed or purchased,
3764 and the type of retirement may not be changed, except that if a
3765 member recovers from a disability, the member may subsequently
3766 request normal service benefits under subsection (2).

3767 (e) A member may not receive a distribution of employee
3768 contributions if a pending or approved qualified domestic
3769 relations order is filed against the member's investment plan
3770 account.

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3771 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided under
 3772 this subsection are payable in lieu of the benefits that ~~which~~
 3773 would otherwise be payable under the provisions of subsection
 3774 (1). Such benefits must ~~shall~~ be funded entirely from employer
 3775 contributions ~~made under s. 121.571~~, transferred employee
 3776 contributions and participant funds accumulated pursuant to
 3777 paragraph (a), and interest and earnings thereon. ~~Pursuant~~
 3778 ~~thereto:~~

3779 (a) *Transfer of funds.*—To qualify for ~~to receive~~ monthly
 3780 disability benefits under this subsection:

3781 1. All moneys accumulated in the member's ~~participant's~~
 3782 ~~Public Employee Optional Retirement Program~~ accounts, including
 3783 vested and nonvested accumulations as described in s.
 3784 121.4501(6), must ~~shall~~ be transferred from such individual
 3785 accounts to the division ~~of Retirement~~ for deposit in the
 3786 disability account of the Florida Retirement System Trust Fund.
 3787 Such moneys must ~~shall~~ be ~~separately~~ accounted for separately.
 3788 Earnings must ~~shall~~ be credited on an annual basis for amounts
 3789 held in the disability accounts ~~of the Florida Retirement System~~
 3790 ~~Trust Fund~~ based on actual earnings of the ~~Florida Retirement~~
 3791 ~~System~~ trust fund.

3792 2. If the member ~~participant~~ has retained retirement credit
 3793 ~~he or she had~~ earned under the pension plan ~~defined benefit~~
 3794 ~~program of the Florida Retirement System~~ as provided in s.
 3795 121.4501(3) ~~s. 121.4501(3)(b)~~, a sum representing the actuarial
 3796 present value of such credit within the Florida Retirement
 3797 System Trust Fund shall be reassigned by the division ~~of~~
 3798 ~~Retirement~~ from the pension plan ~~defined benefit program~~ to the
 3799 disability program as implemented under this subsection and

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3800 shall be deposited in the disability account of the ~~Florida~~
3801 ~~Retirement System~~ trust fund. Such moneys must ~~shall~~ be
3802 ~~separately~~ accounted for separately.

3803 (b) *Disability retirement; entitlement.*-

3804 1. A member participant of the investment plan ~~Public~~
3805 ~~Employee Optional Retirement program~~ who becomes totally and
3806 permanently disabled, as defined in paragraph (d) ~~s.~~
3807 ~~121.091(4)(b)~~, after completing 8 years of creditable service,
3808 or a member participant who becomes totally and permanently
3809 disabled in the line of duty regardless of ~~his or her~~ length of
3810 service, is ~~shall be~~ entitled to a monthly disability benefit ~~as~~
3811 ~~provided herein~~.

3812 2. In order for service to apply toward the 8 years of
3813 creditable service required ~~to vest~~ for regular disability
3814 benefits, or toward the creditable service used in calculating a
3815 service-based benefit as provided ~~for~~ under paragraph (g), the
3816 service must be creditable service as described below:

3817 a. The member's participant's period of service under the
3818 investment plan ~~shall~~ ~~Public Employee Optional Retirement~~
3819 ~~program will~~ be considered creditable service, except as
3820 provided in subparagraph d.

3821 b. If the member participant has elected to retain credit
3822 for ~~his or her~~ service under the pension plan ~~defined benefit~~
3823 ~~program of the Florida Retirement System~~ as provided under s.
3824 121.4501(3) ~~s. 121.4501(3)(b)~~, all such service shall ~~will~~ be
3825 considered creditable service.

3826 c. If the member elects ~~participant has elected~~ to transfer
3827 to his or her member participant accounts a sum representing the
3828 present value of his or her retirement credit under the pension

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3829 ~~plan defined benefit program~~ as provided under s. 121.4501(3) ~~s.~~
3830 ~~121.4501(3)(e)~~, the period of service under the pension plan
3831 ~~defined benefit program~~ represented in the present value amounts
3832 transferred shall ~~will~~ be considered creditable service ~~for~~
3833 ~~purposes of vesting for disability benefits~~, except as provided
3834 in subparagraph d.

3835 d. If a member ~~Whenever a participant~~ has terminated
3836 employment and has taken distribution of his or her funds as
3837 provided in subsection (1), all creditable service represented
3838 by such distributed funds is forfeited for purposes of this
3839 subsection.

3840 (c) *Disability retirement effective date.*—The effective
3841 retirement date for a member ~~participant~~ who applies and is
3842 approved for disability retirement shall be established as
3843 provided under s. 121.091(4)(a)2. and 3.

3844 (d) *Total and permanent disability.*—A member is ~~participant~~
3845 ~~shall be~~ considered totally and permanently disabled if, in the
3846 opinion of the division, he or she is prevented, by reason of a
3847 medically determinable physical or mental impairment, from
3848 rendering useful and efficient service as an officer or
3849 employee.

3850 (e) *Proof of disability.*—~~The division,~~ Before approving
3851 payment of any disability retirement benefit, the division shall
3852 require proof that the member ~~participant~~ is totally and
3853 permanently disabled ~~in the same manner~~ as provided ~~for members~~
3854 ~~of the defined benefit program of the Florida Retirement System~~
3855 under s. 121.091(4)(c).

3856 (f) *Disability retirement benefit.*—Upon the disability
3857 retirement of a member ~~participant~~ under this subsection, the

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3858 ~~member participant~~ shall receive a monthly benefit that begins
3859 accruing ~~shall begin to accrue~~ on the first day of the month of
3860 disability retirement, as approved by the division, and is ~~shall~~
3861 ~~be~~ payable on the last day of that month and each month
3862 thereafter during his or her lifetime and continued disability.
3863 All disability benefits must ~~payable to such member shall~~ be
3864 paid out of the disability account of the Florida Retirement
3865 System Trust Fund established under this subsection.

3866 (g) *Computation of disability retirement benefit.*—The
3867 amount of each monthly payment must ~~shall~~ be calculated ~~in the~~
3868 ~~same manner~~ as provided ~~for members of the defined benefit~~
3869 ~~program of the Florida Retirement System~~ under s. 121.091(4)(f).
3870 ~~For such purpose,~~ Creditable service under both the pension plan
3871 ~~defined benefit program~~ and the investment plan ~~Public Employee~~
3872 ~~Optional Retirement Program of the Florida Retirement System~~
3873 shall be applicable as provided under paragraph (b).

3874 (h) *Reapplication.*—A member participant whose initial
3875 application for disability retirement is ~~has been~~ denied may
3876 reapply for disability benefits in the same manner, and under
3877 the same conditions, as provided for members of the pension plan
3878 ~~defined benefit program of the Florida Retirement System~~ under
3879 s. 121.091(4)(g).

3880 (i) *Membership.*—Upon approval of a member's ~~an~~ application
3881 for disability benefits ~~under this subsection,~~ the applicant
3882 shall be transferred to the pension plan ~~defined benefit program~~
3883 ~~of the Florida Retirement System,~~ effective upon his or her
3884 disability retirement effective date.

3885 (j) *Option to cancel.*—A member ~~Any participant~~ whose
3886 application for disability benefits is approved may cancel the

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3887 ~~his or her~~ application if ~~for disability benefits,~~ provided that
 3888 the cancellation request is received by the division before a
 3889 disability retirement warrant has been deposited, cashed, or
 3890 received by direct deposit. Upon ~~such~~ cancellation:

3891 1. The member's ~~participant's~~ transfer to the pension plan
 3892 ~~defined benefit program~~ under paragraph (i) shall be nullified;

3893 2. The member ~~participant~~ shall be retroactively reinstated
 3894 in the investment plan ~~Public Employee Optional Retirement~~
 3895 ~~program~~ without hiatus;

3896 3. All funds transferred to the Florida Retirement System
 3897 Trust Fund under paragraph (a) must ~~shall~~ be returned to the
 3898 member ~~participant~~ accounts from which the ~~such~~ funds were
 3899 drawn; and

3900 4. The member ~~participant~~ may elect to receive the benefit
 3901 payable under ~~the provisions of~~ subsection (1) in lieu of
 3902 disability benefits ~~as provided under this subsection.~~

3903 (k) *Recovery from disability.*—

3904 1. The division may require periodic reexaminations at the
 3905 expense of the disability program account of the Florida
 3906 Retirement System Trust Fund. Except as ~~otherwise~~ provided in
 3907 subparagraph 2., the requirements, procedures, and restrictions
 3908 relating to the conduct and review of such reexaminations,
 3909 discontinuation or termination of benefits, reentry into
 3910 employment, disability retirement after reentry into covered
 3911 employment, and all other matters relating to recovery from
 3912 disability are ~~shall be the same as provided are set forth~~ under
 3913 s. 121.091(4) (h).

3914 2. Upon recovery from disability, the ~~any~~ recipient of
 3915 disability retirement benefits under this subsection shall be

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3916 transferred back to the investment plan ~~a compulsory member of~~
3917 ~~the Public Employee Optional Retirement Program of the Florida~~
3918 ~~Retirement System~~. The net difference between the recipient's
3919 original account balance transferred to the Florida Retirement
3920 System Trust Fund, including earnings, ~~under paragraph (a)~~ and
3921 total disability benefits paid to such recipient, if any, shall
3922 be determined as provided in sub-subparagraph a.

3923 a. An amount equal to the total benefits paid shall be
3924 subtracted from that portion of the transferred account balance
3925 consisting of vested accumulations as described under s.
3926 121.4501(6), if any, and an amount equal to the remainder of
3927 benefit amounts paid, if any, shall ~~then~~ be subtracted from any
3928 remaining ~~portion consisting of~~ nonvested accumulations ~~as~~
3929 ~~described under s. 121.4501(6)~~.

3930 b. Amounts subtracted under sub-subparagraph a. must ~~shall~~
3931 be retained within the disability account of the Florida
3932 Retirement System Trust Fund. Any remaining account balance
3933 shall be transferred to the third-party administrator for
3934 disposition as provided under sub-subparagraph c. or sub-
3935 subparagraph d., as appropriate.

3936 c. If the recipient returns to covered employment,
3937 transferred amounts must ~~shall~~ be deposited in individual
3938 accounts under the investment plan ~~Public Employee Optional~~
3939 ~~Retirement program~~, as directed by the member ~~participant~~.
3940 Vested and nonvested amounts shall be separately accounted for
3941 as provided in s. 121.4501(6).

3942 d. If the recipient fails to return to covered employment
3943 upon recovery from disability:

3944 (I) Any remaining vested amount must ~~shall~~ be deposited in

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3945 individual accounts under the investment plan ~~Public-Employee~~
 3946 ~~Optional Retirement program~~, as directed by the member
 3947 ~~participant~~, and is shall be payable as provided in subsection
 3948 (1).

3949 (II) Any remaining nonvested amount must shall be held in a
 3950 suspense account and is shall be forfeitable after 5 years as
 3951 provided in s. 121.4501(6).

3952 3. If present value was reassigned from the pension plan
 3953 ~~defined benefit program~~ to the disability program ~~of the Florida~~
 3954 ~~Retirement System~~ as provided under subparagraph (a)2., the full
 3955 present value amount must shall be returned to the pension plan
 3956 ~~defined benefit account~~ within the Florida Retirement System
 3957 Trust Fund and the recipient's affected individual's associated
 3958 retirement credit under the pension plan must defined benefit
 3959 ~~program shall~~ be reinstated in full. Any benefit based upon such
 3960 credit must shall be calculated as provided in s.
 3961 121.091(4)(h)1.

3962 (1) *Nonadmissible causes of disability.*—A member is
 3963 ~~participant shall~~ not be entitled to ~~receive~~ a disability
 3964 retirement benefit if the disability results from any injury or
 3965 disease ~~sustained or inflicted~~ as described in s. 121.091(4)(i).

3966 (m) *Disability retirement of justice or judge by order of*
 3967 *Supreme Court.*—

3968 1. If a member participant is a justice of the Supreme
 3969 Court, judge of a district court of appeal, circuit judge, or
 3970 judge of a county court who has served for 6 years or more as an
 3971 elected constitutional judicial officer, including service as a
 3972 judicial officer in any court abolished pursuant to Art. V of
 3973 the State Constitution, and who is retired for disability ~~by~~

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3974 ~~order of the Supreme Court upon recommendation of the Judicial~~
3975 ~~Qualifications Commission pursuant to s. 12, the provisions of~~
3976 ~~Art. V of the State Constitution, the member's participant's~~
3977 ~~Option 1 monthly disability benefit amount as provided in s.~~
3978 ~~121.091(6)(a)1. shall be two-thirds of his or her monthly~~
3979 ~~compensation as of the member's participant's disability~~
3980 ~~retirement date. The member ~~Such a participant~~ may alternatively~~
3981 ~~elect to receive an actuarially adjusted disability retirement~~
3982 ~~benefit under any other option as provided in s. 121.091(6)(a),~~
3983 ~~or ~~to~~ receive the normal benefit payable under ~~the Public~~~~
3984 ~~Employee Optional Retirement Program as set forth in subsection~~
3985 ~~(1).~~

3986 2. If any justice or judge who is a member participant of
3987 ~~the investment plan ~~Public Employee Optional Retirement program~~~~
3988 ~~of the ~~Florida Retirement System~~ is retired for disability by~~
3989 ~~order of the Supreme Court upon recommendation of the Judicial~~
3990 ~~Qualifications Commission pursuant to s. 12, the provisions of~~
3991 ~~Art. V of the State Constitution, and elects to receive a~~
3992 ~~monthly disability benefit under ~~the provisions of~~ this~~
3993 ~~paragraph:~~

3994 a. Any present value amount that was transferred to his or
3995 ~~her plan program account and all employer contributions made to~~
3996 ~~such account on his or her behalf, plus interest and earnings~~
3997 ~~thereon, must ~~shall~~ be transferred to and deposited in the~~
3998 ~~disability account of the Florida Retirement System Trust Fund;~~
3999 ~~and~~

4000 b. The monthly disability benefits payable under this
4001 ~~paragraph for any affected justice or judge retired from the~~
4002 ~~Florida Retirement System pursuant to Art. V of the State~~

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4003 Constitution shall be paid from the disability account of the
4004 Florida Retirement System Trust Fund.

4005 (n) *Death of retiree or beneficiary.*—Upon the death of a
4006 disabled retiree or beneficiary of the retiree ~~thereof~~ who is
4007 receiving monthly disability benefits under this subsection, the
4008 monthly benefits shall be paid through the last day of the month
4009 of death and shall terminate, or be adjusted, if applicable, as
4010 of that date in accordance with the optional form of benefit
4011 selected at the time of retirement. The department ~~of Management~~
4012 ~~Services~~ may adopt rules necessary to administer this paragraph.

4013 (3) DEATH BENEFITS.—Under the Florida Public Employee
4014 ~~Optional Retirement System Investment Plan Program~~:

4015 (a) Survivor benefits are ~~shall be~~ payable in accordance
4016 with the following terms and conditions:

4017 1. ~~To the extent vested,~~ Benefits are ~~shall be~~ payable only
4018 to a member's participant's ~~beneficiary or~~ beneficiaries as
4019 designated by the member participant as provided in s.
4020 121.4501(20).

4021 2. Benefits shall be paid by the third-party administrator
4022 or designated approved providers in accordance with the law, the
4023 contracts, and any applicable state board rule or policy.

4024 3. To receive benefits ~~under this subsection,~~ the member
4025 ~~participant~~ must be deceased.

4026 (b) Except as provided in paragraph (d), if the employment
4027 of a member is terminated by reason of his or her ~~In the event~~
4028 ~~of a participant's death:~~

4029 1. Before being vested, the member's accumulated
4030 contributions are payable to his or her designated beneficiary.

4031 2. After being vested, all vested accumulations as

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4032 described in s. 121.4501(6), less withholding taxes remitted to
4033 the Internal Revenue Service, shall be distributed, as provided
4034 in paragraph (c) or as described in s. 121.4501(20), as if the
4035 member participant retired on the date of death. No other death
4036 benefits are ~~shall be~~ available for survivors of members
4037 ~~participants~~ under the investment plan ~~Public Employee Optional~~
4038 ~~Retirement Program~~, except for ~~such~~ benefits, or coverage for
4039 ~~such~~ benefits, as are otherwise provided by law or ~~are~~
4040 separately provided ~~afforded~~ by the employer, at the employer's
4041 discretion.

4042 (c) Upon receipt by the third-party administrator of a
4043 properly executed application for distribution of benefits under
4044 paragraph (b), the total accumulated benefit ~~is~~ ~~shall be~~ payable
4045 by the third-party administrator to the member's participant's
4046 surviving beneficiary or beneficiaries, as:

4047 1. A lump-sum distribution payable to the beneficiary or
4048 beneficiaries, or to the deceased member's participant's estate;

4049 2. An eligible rollover distribution on behalf of the
4050 surviving spouse of a deceased member participant, whereby all
4051 accrued benefits, plus interest and investment earnings, are
4052 paid from the deceased member's participant's account directly
4053 to the custodian of an eligible retirement plan, as described in
4054 s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
4055 surviving spouse; or

4056 3. A partial lump-sum payment whereby a portion of the
4057 accrued benefit is paid to the deceased member's participant's
4058 surviving spouse or other designated beneficiaries, less
4059 withholding taxes remitted to the Internal Revenue Service, and
4060 the remaining amount is transferred directly to the custodian of

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4061 an eligible retirement plan, as described in s. 402(c)(8)(B) of
4062 the Internal Revenue Code, on behalf of the surviving spouse.
4063 The proportions must be specified by the member participant or
4064 the surviving beneficiary.

4065 (d) Notwithstanding paragraphs (b) and (c), if a member is
4066 killed in the line of duty, benefits are payable from employer
4067 contributions made pursuant to s. 121.571, transferred members
4068 funds accumulated pursuant to sub-subparagraph 1.a., and
4069 interest and earnings thereon.

4070 1. Transfer of funds.-

4071 a. All moneys accumulated in the deceased member's
4072 investment plan accounts, including vested and nonvested
4073 accumulations described in s. 121.4501(6), shall be transferred
4074 from such individual accounts to the Division of Retirement for
4075 deposit in the death benefits program of the Florida Retirement
4076 System Trust Fund. Such moneys must be separately accounted for.
4077 Earnings shall be credited on an annual basis for amounts held
4078 in the death benefits accounts of the trust fund based on actual
4079 earnings of the trust fund.

4080 b. If the deceased member retained retirement credit he or
4081 she earned under the pension plan as provided in s.
4082 121.4501(3)(b), a sum representing the actuarial present value
4083 of such credit within the Florida Retirement System Trust Fund
4084 shall be reassigned by the Division of Retirement from the
4085 pension plan to the death benefits program as implemented under
4086 this paragraph and deposited in the death benefits account of
4087 the trust fund. Such moneys shall be separately accounted for.

4088 2. Death benefit entitlement and payments.-

4089 a. The surviving spouse of a member killed in the line of

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4090 duty may receive a monthly pension equal to one-half of the
4091 monthly salary being received by the member at the time of death
4092 for the rest of the surviving spouse's lifetime.

4093 b. If the surviving spouse of a member killed in the line
4094 of duty dies, the monthly payments that would have been payable
4095 to the surviving spouse had such surviving spouse lived shall be
4096 paid for the use and benefit of such member's children under 18
4097 years of age and unmarried until the 18th birthday of the
4098 member's youngest child.

4099 c. If a member killed in the line of duty leaves no
4100 surviving spouse but is survived by children under 18 years of
4101 age, the benefits provided by sub-subparagraph a., normally
4102 payable to a surviving spouse, shall be paid for the use and
4103 benefit of the member's child or children under 18 years of age
4104 and unmarried until the 18th birthday of the member's youngest
4105 child.

4106
4107 This paragraph does not abrogate other applicable provisions of
4108 state or federal law providing for payment of death benefits.

4109 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to
4110 any person under the Florida Public Employee Optional Retirement
4111 System Investment Plan Program, and any contributions
4112 accumulated under such plan program, are not subject to
4113 assignment, execution, attachment, or any legal process, except
4114 for qualified domestic relations orders by a court of competent
4115 jurisdiction, income deduction orders as provided in s. 61.1301,
4116 and federal income tax levies.

4117 Section 26. Section 121.5911, Florida Statutes, is amended
4118 to read:

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4119 121.5911 Disability retirement program; qualified status;
 4120 rulemaking authority.—It is the intent of the Legislature that
 4121 the disability retirement program for members ~~participants~~ of
 4122 the Florida Public Employee Optional Retirement System
 4123 Investment Plan Program ~~as created in this act~~ must meet all
 4124 applicable requirements of federal law for a qualified plan. The
 4125 department ~~of Management Services~~ shall seek a private letter
 4126 ruling from the Internal Revenue Service on the disability
 4127 retirement program ~~for participants of the Public Employee~~
 4128 ~~Optional Retirement Program~~. Consistent with the private letter
 4129 ruling, the department ~~of Management Services~~ shall adopt any
 4130 ~~necessary~~ rules necessary ~~required~~ to maintain the qualified
 4131 status of the disability retirement program and the Florida
 4132 Retirement System's pension System ~~defined benefit~~ plan.

4133 Section 27. Subsection (1) of section 121.70, Florida
 4134 Statutes, is amended to read:

4135 121.70 Legislative purpose and intent.—

4136 (1) This part provides for a uniform system for funding
 4137 benefits provided under the Florida Retirement System defined
 4138 benefit program established under part I of this chapter,
 4139 ~~(referred to in this part as the pension plan, ~~defined benefit~~~~
 4140 ~~program)~~ and under the Florida Public Employee Optional
 4141 Retirement System Investment Plan Program established under part
 4142 II of this chapter, ~~(referred to in this part as the investment~~
 4143 ~~plan optional retirement program)~~. The Legislature recognizes
 4144 and declares that the Florida Retirement System is a single
 4145 retirement system, consisting of two retirement plans and other
 4146 nonintegrated programs. Employers participating in the Florida
 4147 Retirement System collectively shall be responsible for making

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4148 contributions to support the benefits provided ~~afforded~~ under
4149 both programs ~~plans~~. ~~The As provided in this part,~~ employers
4150 ~~participating in the Florida Retirement System~~ shall make
4151 contributions based upon uniform contribution rates determined
4152 as a percentage of the total payroll for each class or subclass
4153 of Florida Retirement System membership, irrespective of which
4154 retirement program the plan individual employee is enrolled in
4155 ~~employees may elect~~. This shall be known as a uniform or blended
4156 contribution rate system.

4157 Section 28. Subsections (1) and (2) of section 121.71,
4158 Florida Statutes, are amended, present subsections (3) and (4)
4159 of that section are renumbered as subsections (4) and (7),
4160 respectively, and new subsections (3), (5), and (6) are added to
4161 that section, to read:

4162 121.71 Uniform rates; process; calculations; levy.—

4163 (1) In conducting the system actuarial study required under
4164 s. 121.031, the actuary shall follow all requirements specified
4165 ~~thereunder~~ to determine, by Florida Retirement System employee
4166 membership class, the dollar contribution amounts necessary for
4167 the next forthcoming fiscal year for the pension plan defined
4168 ~~benefit program~~. In addition, the actuary shall determine, by
4169 Florida Retirement System membership class, based on an estimate
4170 for the forthcoming fiscal year of the gross compensation of
4171 employees participating in the investment plan optional
4172 ~~retirement program~~, the dollar contribution amounts necessary to
4173 make the allocations required under ss. 121.72 and 121.73. For
4174 each employee membership class and subclass, the actuarial study
4175 must shall establish a uniform rate necessary to fund the
4176 benefit obligations under both Florida Retirement System

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4177 retirement plans by dividing the sum of total dollars required
4178 by the estimated gross compensation of members in both plans.

4179 (2) Based on the uniform rates set forth in subsections
4180 ~~subsection~~ (3), (4), and (5), employers and employees shall make
4181 monthly contributions to the Division of Retirement as required
4182 under s. 121.061(1), which shall initially deposit the funds
4183 into the Florida Retirement System Contributions Clearing Trust
4184 Fund. A change in a contribution rate is effective on the first
4185 day of the month for which a full month's ~~employer~~ contribution
4186 may be made on or after the beginning date of the change.
4187 Beginning July 1, 2011, each employee shall contribute the
4188 contributions required in subsection (3) to the plan. The
4189 employer shall deduct the contribution from the employee's
4190 monthly salary and submit it to the division. The contributions
4191 shall be reported as employer-paid employee contributions, and
4192 shall be credited to the account of the employee. The
4193 contributions shall be deducted from the employee's salary
4194 before the computation of applicable federal taxes and treated
4195 as employer contributions under 26 U.S.C. 414(b)(2). Although
4196 designated as employee contributions, the employer specifies
4197 that the contributions are being paid by the employer in lieu of
4198 contributions by the employee. The employee does not have the
4199 option of choosing to receive the contributed amounts directly
4200 instead of having them paid to the plan. Such contributions are
4201 mandatory and each employee is deemed to have consented to the
4202 payroll deductions. Payment of an employee's salary or wages,
4203 less the contribution, is a full and complete discharge and
4204 satisfaction of all claims and demands for the service rendered
4205 by employees during the period covered by the payment, except

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4206 for claims to benefits to which they may be entitled under this
 4207 chapter.

4208 (3) Employee retirement contributions are not required if
 4209 the Florida Retirement System reaches or exceeds 100 percent of
 4210 actuarial funding. However, employee contributions shall be set
 4211 for an entire fiscal year. Effective July 1, 2011, required
 4212 employee retirement contribution rates for all members for the
 4213 2011-2012 fiscal year shall be 0 percent for gross compensation
 4214 up to and including \$40,000, plus no more than 2 percent for
 4215 gross compensation in excess of \$40,000 and up to and including
 4216 \$75,000, plus no more than 4 percent for gross compensation that
 4217 is greater than \$75,000.

4218 (4)~~(3)~~ Required employer retirement contribution rates for
 4219 each membership class and subclass of the Florida Retirement
 4220 System for both retirement plans are as follows:
 4221

Membership Class	Percentage of Gross Compensation, Effective July 1, <u>2011</u> 2009	Percentage of Gross Compensation, Effective July 1, <u>2012</u> 2010
4222		
4223		
4224	<u>9.76%</u> 8.69%	<u>9.54%</u> 9.63%
4225	<u>22.20%</u> 19.76%	<u>21.92%</u> 22.11%

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Special Risk

Administrative

Support Class

11.41% ~~11.39%~~

11.02% ~~12.10%~~

4226

Elected Officers'
Class-

Legislators, Governor,
Lt. Governor,
Cabinet Officers,
State Attorneys,
Public Defenders

14.48% ~~13.32%~~

14.15% ~~15.20%~~

4227

Elected Officers'
Class-

Justices, Judges

19.43% ~~18.40%~~

19.15% ~~20.65%~~

4228

Elected Officers'
Class-

County Elected
Officers

16.73% ~~15.37%~~

16.39% ~~17.50%~~

4229

Senior Management Class

11.70% ~~11.96%~~

16.39% ~~13.43%~~

4230

DROP

13.79% ~~9.80%~~

14.21% ~~11.14%~~

4231

4232

(5) In order to address unfunded actuarial liabilities of

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4233 the system, the required employer retirement contribution rates
 4234 for each membership class and subclass of the Florida Retirement
 4235 System for both retirement plans are as follows:

4236
 4237

	<u>Percentage of</u> <u>Gross</u> <u>Compensation,</u> <u>Effective</u> <u>July 1, 2011</u>	<u>Percentage of</u> <u>Gross</u> <u>Compensation,</u> <u>Effective</u> <u>July 1, 2012</u>
<u>Membership Class</u>		
4238 <u>Regular Class</u>	_____ %	<u>1.58%</u>
4239		
4240 <u>Special Risk Class</u>	_____ %	<u>5.97%</u>
4241 <u>Special Risk</u>		
<u>Administrative</u>		
4242 <u>Support Class</u>	_____ %	<u>15.97%</u>
<u>Elected Officers'</u>		
<u>Class—</u>		
<u>Legislators, Governor,</u>		
<u>Lt. Governor,</u>		
<u>Cabinet Officers,</u>		
<u>State Attorneys,</u>		
4243 <u>Public Defenders</u>	_____ %	<u>17.05%</u>

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Elected Officers'

Class-

<u>Justices, Judges</u>	<u> </u> %	<u>11.00%</u>
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4244

Elected Officers'

Class-

<u>County Elected</u>		
<u>Officers</u>	<u> </u> %	<u>19.75%</u>

4245

<u>Senior Management Class</u>	<u> </u> %	<u>9.26%</u>
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4246

<u>DROP</u>	<u> </u> %	<u>4.97%</u>
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4247

4248

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4255

4256

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

4257

4258

4259

4260

4261

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

4262

4263

Section 29. Section 121.72, Florida Statutes, is amended to read:

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4264 121.72 Allocations to investment plan member ~~optional~~
4265 ~~retirement program participant~~ accounts; percentage amounts.—

4266 (1) The allocations established in subsection (4) shall
4267 fund retirement benefits under the investment plan under part II
4268 of this chapter ~~optional retirement program~~ and shall be
4269 transferred monthly by the Division of Retirement from the
4270 Florida Retirement System Contributions Clearing Trust Fund to
4271 the third-party administrator for deposit in each participating
4272 employee's individual account based on the membership class of
4273 the employee participant.

4274 (2) The allocations are stated as a percentage of each
4275 investment plan member's ~~optional retirement program~~
4276 ~~participant's~~ gross compensation for the calendar month. A
4277 change in a contribution percentage is effective the first day
4278 of the month for which retirement contributions ~~a full month's~~
4279 ~~employer contribution~~ may be made on or after the beginning date
4280 of the change. Contribution percentages may be modified by
4281 general law.

4282 (3) Employer and employee participant contributions to
4283 member's participant accounts shall be accounted for separately.
4284 ~~Participant contributions may be made only if expressly~~
4285 ~~authorized by law.~~ Interest and investment earnings on
4286 contributions shall accrue on a tax-deferred basis until
4287 proceeds are distributed.

4288 (4) Effective July 1, 2011 ~~July 1, 2002~~, allocations from
4289 the Florida Retirement System Contributions Clearing Trust Fund
4290 to investment plan member ~~optional retirement program~~
4291 participant accounts, including employee contributions required
4292 under s. 121.71(3), are ~~shall be~~ as follows:

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4293

Membership Class

Percentage of Gross
Compensation

Regular Class

9.00%

4294

Special Risk Class

20.00%

4295

Special Risk Administrative Support
Class

11.35%

4296

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

13.40%

4297

Elected Officers' Class—
Justices, Judges

18.90%

4298

Elected Officers' Class—
County Elected Officers

16.20%

4299

Senior Management Service Class

10.95%

4300

4301

4302 Section 30. Section 121.73, Florida Statutes, is amended to
4303 read:

4304 121.73 Allocations for member ~~optional retirement program~~

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4305 ~~participant~~ disability coverage; percentage amounts.-

4306 (1) The allocations established in subsection (3) shall be
 4307 used to provide disability coverage for members of the
 4308 investment plan ~~participants in the optional retirement program~~
 4309 and shall be transferred monthly by the Division of Retirement
 4310 from the Florida Retirement System Contributions Clearing Trust
 4311 Fund to the disability account of the Florida Retirement System
 4312 Trust Fund.

4313 (2) The allocations are stated as a percentage of each
 4314 investment plan participant's ~~optional retirement program~~
 4315 ~~participant's~~ gross compensation for the calendar month. A
 4316 change in a contribution percentage is effective the first day
 4317 of the month for which retirement contributions ~~a full month's~~
 4318 ~~employer contribution~~ may be made on or after the beginning date
 4319 of the change. Contribution percentages may be modified by
 4320 general law.

4321 (3) Effective July 1, 2002, allocations from the Florida
 4322 Retirement System ~~FRS~~ Contribution Clearing Fund to provide
 4323 disability coverage for members of the investment plan
 4324 ~~participants in the optional retirement program~~, and to offset
 4325 the costs of administering said coverage, shall be as follows:
 4326

Membership Class	Percentage of Gross Compensation
------------------	-------------------------------------

4327

4328

Regular Class	0.25%
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4329

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4330	Special Risk Class	1.33%
4331	Special Risk Administrative Support Class	0.45%
4332	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
4333	Elected Officers' Class— Justices, Judges	0.73%
4334	Elected Officers' Class— County Elected Officers	0.41%
4335	Senior Management Service Class	0.26%

4336

4337 (4) Effective July 1, 2011, allocations from the Florida
 4338 Retirement System Contribution Clearing Fund to provide
 4339 disability coverage for members of the investment plan and to
 4340 offset the costs of administering such coverage shall be the
 4341 actuarially indicated amount necessary to fund the statutorily
 4342 authorized benefit for the plan year as determined by the
 4343 department's actuary.

4344 Section 31. Section 121.74, Florida Statutes, is amended to
 4345 read:

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4346 121.74 Administrative and educational expenses.—In addition
4347 to contributions required under ss. ~~s.~~ 121.71 and 121.73,
4348 effective July 1, 2010, through June 30, 2014, employers
4349 participating in the Florida Retirement System shall contribute
4350 an amount equal to 0.03 percent of the payroll reported for each
4351 class or subclass of Florida Retirement System membership;
4352 effective July 1, 2014, the contribution rate shall be 0.04
4353 percent of the payroll reported for each class or subclass of
4354 membership. The amount contributed shall be transferred by the
4355 Division of Retirement from the Florida Retirement System
4356 Contributions Clearing Trust Fund to the state board's ~~Board of~~
4357 ~~Administration's~~ administrative trust fund to offset the costs
4358 of administering the investment plan ~~optional retirement program~~
4359 and the costs of providing educational services to participants
4360 in the pension plan ~~defined benefit program~~ and the investment
4361 plan ~~optional retirement program~~. Approval of the trustees is
4362 required before the expenditure of these funds. Payments for
4363 third-party administrative or educational expenses shall be made
4364 only pursuant to the terms of the approved contracts for such
4365 services.

4366 Section 32. Section 121.75, Florida Statutes, is amended to
4367 read:

4368 121.75 Allocation for pension plan ~~defined benefit~~
4369 ~~program~~.—After making the transfers required pursuant to ss.
4370 121.71, 121.72, 121.73, and 121.74, the monthly balance of funds
4371 in the Florida Retirement System Contributions Clearing Trust
4372 Fund shall be transferred to the Florida Retirement System Trust
4373 Fund to pay the costs of providing pension plan ~~defined benefit~~
4374 ~~program~~ benefits and plan administrative costs under the pension

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4375 ~~plan defined benefit program.~~

4376 Section 33. Section 121.77, Florida Statutes, is amended to
4377 read:

4378 121.77 Deductions from member ~~participant~~ accounts.—The
4379 State Board of Administration may authorize the third-party
4380 administrator to deduct reasonable fees and apply appropriate
4381 charges to investment plan member ~~optional retirement program~~
4382 ~~participant~~ accounts. In no event may ~~shall~~ administrative and
4383 educational expenses exceed the portion of employer
4384 contributions earmarked for such expenses under this part,
4385 except for reasonable administrative charges assessed against
4386 member ~~participant~~ accounts of persons for whom no employer
4387 contributions are made during the calendar quarter. Investment
4388 management fees shall be deducted from member ~~participant~~
4389 accounts, pursuant to the terms of the contract between the
4390 provider and the board.

4391 Section 34. Subsections (1) and (3) of section 121.78,
4392 Florida Statutes, are amended to read:

4393 121.78 Payment and distribution of contributions.—

4394 (1) Contributions made pursuant to this part, including the
4395 employee contributions, shall be paid by the employer to the
4396 Division of Retirement by electronic funds transfer no later
4397 than the 5th working day of the month immediately following the
4398 month during which the payroll period ended. Accompanying
4399 payroll data must be transmitted to the division concurrent with
4400 the contributions.

4401 (3) (a) Employer and employee contributions and accompanying
4402 payroll data received after the 5th working day of the month are
4403 considered late. The employer shall be assessed by the Division

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4404 of Retirement a penalty of 1 percent of the contributions due
4405 for each calendar month or part thereof that the contributions
4406 or accompanying payroll data are late. Proceeds from the 1-
4407 percent assessment against contributions made on behalf of
4408 members of the pension plan ~~participants of the defined benefit~~
4409 ~~program~~ shall be deposited in the Florida Retirement System
4410 Trust Fund, and proceeds from the 1 percent ~~1 percent~~ assessment
4411 against contributions made on behalf of members of the
4412 investment plan ~~participants of the optional retirement program~~
4413 shall be transferred to the third-party administrator for
4414 deposit into member ~~participant~~ accounts, as provided in
4415 paragraph (c) ~~(b)~~.

4416 (b) Retirement contributions paid for a prior period shall
4417 be charged a delinquent fee of 1 percent for each calendar month
4418 or part thereof that the contributions should have been paid.
4419 This includes prior period contributions due to incorrect wages,
4420 contributions from an earlier report or wages, and contributions
4421 that should have been reported but were not. The delinquent
4422 assessments may not be waived.

4423 (c) ~~(b)~~ If employee contributions or contributions made by
4424 an employer on behalf of members of the investment plan
4425 ~~participants of the optional retirement program~~ or accompanying
4426 payroll data are not received within the calendar month they are
4427 due, including, but not limited to, contribution adjustments as
4428 a result of employer errors or corrections, and if that
4429 delinquency results in market losses to members ~~participants~~,
4430 the employer shall reimburse each member's ~~participant's~~ account
4431 for market losses resulting from the late contributions. If a
4432 member ~~participant~~ has terminated employment and taken a

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4433 distribution, the member participant is responsible for
4434 returning any excess contributions erroneously provided by
4435 employers, adjusted for any investment gain or loss incurred
4436 during the period such excess contributions were in the member's
4437 ~~participant's~~ account. The state board or its designated agent
4438 shall communicate to terminated members participants any
4439 obligation to repay such excess contribution amounts. However,
4440 the state board, its designated agents, the Florida Public
4441 ~~Employee Optional Retirement System Investment Plan Program~~
4442 Trust Fund, the department, or the Florida Retirement System
4443 Trust Fund may not incur any loss or gain as a result of an
4444 employer's correction of such excess contributions. The third-
4445 party administrator, hired by the state board pursuant to s.
4446 121.4501(8), shall calculate the market losses for each affected
4447 member participant. If contributions made on behalf of members
4448 ~~of the investment plan participants of the optional retirement~~
4449 ~~program~~ or accompanying payroll data are not received within the
4450 calendar month due, the employer shall also pay the cost of the
4451 third-party administrator's calculation and reconciliation
4452 adjustments resulting from the late contributions. The third-
4453 party administrator shall notify the employer of the results of
4454 the calculations and the total amount due from the employer for
4455 such losses and the costs of calculation and reconciliation. The
4456 employer shall remit to the Division of Retirement the amount
4457 due within 30 working days after the date of the penalty notice
4458 sent by the division. The division shall transfer that amount to
4459 the third-party administrator, which shall deposit proceeds from
4460 the 1 percent ~~1-percent~~ assessment and from individual market
4461 losses into member participant accounts, as appropriate. The

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4462 state board may adopt rules to administer the provisions
4463 regarding late contributions, late submission of payroll data,
4464 the process for reimbursing member ~~participant~~ accounts for
4465 resultant market losses, and the penalties charged to the
4466 employers.

4467 (d) If employee contributions reported by an employer on
4468 behalf of the employee are reduced as a result of employer
4469 errors or corrections and the employee has terminated employment
4470 and taken a refund or distribution, the employer shall be billed
4471 and is responsible for recovering from the employee any excess
4472 contributions erroneously provided by the employer.

4473 (e) ~~(e)~~ Delinquency fees specified in paragraph (a) may be
4474 waived by the Division of Retirement, with regard to pension
4475 plan ~~defined benefit program~~ contributions, and by the state
4476 board, with regard to investment plan ~~optional retirement~~
4477 ~~program~~ contributions, only if, in the opinion of the division
4478 or the board, as appropriate, exceptional circumstances beyond
4479 the employer's control prevented remittance by the prescribed
4480 due date notwithstanding the employer's good faith efforts to
4481 effect delivery. Such a waiver of delinquency may be granted an
4482 employer only once each plan ~~state fiscal~~ year.

4483 (f) If the employer submits excess employer or employee
4484 contributions, the employer shall receive a credit to be applied
4485 against future contributions owed. The employer is responsible
4486 for reimbursing the employee for any excess contributions
4487 submitted if any return of such an erroneous excess pretax
4488 contribution by the program is made within 1 year after making
4489 erroneous contributions or such other period as allowed under
4490 applicable Internal Revenue Service guidance.

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4491 (g)~~(d)~~ If contributions made by an employer on behalf of
4492 members of the investment program ~~participants in the optional~~
4493 ~~retirement program~~ are delayed in posting to member ~~participant~~
4494 accounts due to acts of God beyond the control of the Division
4495 of Retirement, the state board, or the third-party
4496 administrator, as applicable, market losses resulting from the
4497 late contributions are not payable to the members ~~participants~~.

4498 Section 35. Paragraph (a) of subsection (4) of section
4499 1012.875, Florida Statutes, is amended to read:

4500 1012.875 State Community College System Optional Retirement
4501 Program.—Each community college may implement an optional
4502 retirement program, if such program is established therefor
4503 pursuant to s. 1001.64(20), under which annuity or other
4504 contracts providing retirement and death benefits may be
4505 purchased by, and on behalf of, eligible employees who
4506 participate in the program, in accordance with s. 403(b) of the
4507 Internal Revenue Code. Except as otherwise provided herein, this
4508 retirement program, which shall be known as the State Community
4509 College System Optional Retirement Program, may be implemented
4510 and administered only by an individual community college or by a
4511 consortium of community colleges.

4512 (4) (a) Through June 30, 2011, each college must contribute
4513 on behalf of each program member ~~participant~~ an amount equal to
4514 10.43 percent of the employee's ~~participant's~~ gross monthly
4515 compensation. Effective July 1, 2011, each member shall
4516 contribute an amount equal to the employee contribution required
4517 under s. 121.71(3). Effective July 1, 2011, each employer shall
4518 contribute on behalf of each program member an amount equal to
4519 the difference between 10.43 percent of the employee's gross

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4520 monthly compensation and the employee's required contribution
4521 based on the employee's gross monthly compensation. The college
4522 shall deduct an amount approved by the district board of
4523 trustees of the college to provide for the administration of the
4524 optional retirement program. Payment of this contribution must
4525 be made ~~either~~ directly by the college or through the program
4526 administrator to the designated company contracting for payment
4527 of benefits to the program member participant.

4528 Section 36. The Legislature finds that a proper and
4529 legitimate state purpose is served when employees and retirees
4530 of the state and its political subdivisions, and the dependents,
4531 survivors, and beneficiaries of such employees and retirees, are
4532 extended the basic protections afforded by governmental
4533 retirement systems. These persons must be provided benefits that
4534 are fair and adequate and that are managed, administered, and
4535 funded in an actuarially sound manner, as required by s. 14,
4536 Article X of the State Constitution and part VII of chapter 112,
4537 Florida Statutes. Therefore, the Legislature determines and
4538 declares that this act fulfills an important state interest.

4539 Section 37. The Division of Statutory Revision is requested
4540 to rename the title of part II of chapter 121, Florida Statutes,
4541 as "Florida Retirement System Investment Plan."

4542 Section 38. (1) Effective upon this act becoming a law, the
4543 State Board of Administration and the Department of Management
4544 Services shall, as soon as practicable, request a determination
4545 letter and private letter ruling from the United States Internal
4546 Revenue Service. If the Internal Revenue Service refuses to act
4547 upon a request for a private letter ruling, the legal opinion
4548 from a qualified tax attorney or firm may be substituted for the

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4549 private letter ruling.

4550 (2) If the board or the department receives notification
4551 from the United States Internal Revenue Service that this act or
4552 any portion of this act will cause the Florida Retirement
4553 System, or a portion thereof, to be disqualified for tax
4554 purposes under the Internal Revenue Code, then that portion does
4555 not apply. Upon such notice, the state board and the department
4556 shall notify the presiding officers of the Legislature.

4557 Section 39. Each state university, as defined in s.
4558 1000.21, Florida Statutes, may develop and implement cost-
4559 effective strategies to deliver health care benefits to its
4560 employees, including faculty and staff. Each such university may
4561 develop health benefit programs, including, but not limited to,
4562 group or self-insurance plans, as well as the necessary
4563 administrative services required to implement and administer
4564 such programs if the annual costs in the year of the
4565 implementation do not exceed current state expenditures.

4566 Section 40. Except as otherwise expressly provided in this
4567 act, this act shall take effect July 1, 2011.