

20112100e2

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

20112100e2

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

20112100e2

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

20112100e2

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

20112100e2

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

20112100e2

146 121.5911 and 121.70, F.S.; conforming provisions to  
147 changes made by the act; amending s. 121.71, F.S.;  
148 providing for employee contributions to be deducted  
149 from the employee's monthly salary, beginning on a  
150 specified date, and treated as employer contributions  
151 under certain provisions of federal law; clarifying  
152 that an employee may not receive such contributions  
153 directly; specifying the required contribution rate  
154 for all members of the Florida Retirement System;  
155 providing an exception for participants in the  
156 Deferred Retirement Option Program; specifying the  
157 required employer retirement contribution rates for  
158 each membership class and subclass of the system in  
159 order to address unfunded actuarial liabilities of the  
160 system; requiring an assessment to be imposed if the  
161 employee contributions remitted are less than the  
162 amount required; providing for the employer to receive  
163 a credit for excess contributions remitted; conforming  
164 cross-references; amending s. 121.72, F.S.; revising  
165 certain requirements governing allocations to optional  
166 retirement program member accounts; conforming cross-  
167 references; amending s. 121.73, F.S., relating to  
168 disability coverage for members of the optional  
169 retirement program; conforming provisions to changes  
170 made by the act; amending ss. 121.74, 121.75, and  
171 121.77, F.S.; conforming provisions to changes made by  
172 the act; conforming cross-references; amending s.  
173 121.78, F.S.; revising certain requirements for  
174 administering the payment and distribution of

20112100e2

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

20112100e2

204 Board of Administration and the Department of  
205 Management Services to request a private letter ruling  
206 from the United States Internal Revenue Service  
207 regarding the act; providing an effective date.  
208

209 Be It Enacted by the Legislature of the State of Florida:  
210

211 Section 1. Paragraph (g) of subsection (2) of section  
212 110.123, Florida Statutes, is amended to read:

213 110.123 State group insurance program.—

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

215 (g) "Retired state officer or employee" or "retiree" means  
216 a any state, or state university, officer or employee who  
217 retires under a state retirement system or a state optional  
218 annuity or retirement program or is placed on disability  
219 retirement, ~~and~~ who was insured under the state group insurance  
220 program at the time of retirement, and who begins receiving  
221 retirement benefits immediately after retirement from state or  
222 state university office or employment. The term also includes ~~In~~  
223 ~~addition to these requirements,~~ any state officer or state  
224 employee who retires under the investment plan ~~Public Employee~~  
225 ~~Optional Retirement Program~~ established under part II of chapter  
226 121 ~~shall be considered a "retired state officer or employee" or~~  
227 ~~"retiree" as used in this section~~ if he or she:

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

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

232 Section 2. Section 112.0801, Florida Statutes, is amended



20112100e2

233 to read:

234 112.0801 Group insurance; participation by retired  
235 employees.—

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

20112100e2

262 basically the same as for the active group.

263 ~~(2) For purposes of this section, the term "retiree" has~~  
264 ~~the same meaning as in s. 110.123(2) means any officer or~~  
265 ~~employee who retires under a state retirement system or a state~~  
266 ~~optional annuity or retirement program or is placed on~~  
267 ~~disability retirement and who begins receiving retirement~~  
268 ~~benefits immediately after retirement from employment. In~~  
269 ~~addition to these requirements, any officer or employee who~~  
270 ~~retires under the Public Employee Optional Retirement Program~~  
271 ~~established under part II of chapter 121 shall be considered a~~  
272 ~~"retired officer or employee" or "retiree" as used in this~~  
273 ~~section if he or she:~~

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

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

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

281 112.363 Retiree health insurance subsidy.—

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

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

288 1. For a member participant of the investment plan Public  
289 ~~Employee Optional Retirement program~~ established under part II  
290 of chapter 121, the member participant meets the age or service

20112100e2

291 requirements to qualify for normal retirement as set forth in s.  
292 121.021(29) and meets the definition of retiree in s.  
293 121.4501(2).

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

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

309 ~~2. Notwithstanding the provisions of subparagraph 1., a~~  
310 person retiring due to disability must ~~either~~ qualify for a  
311 regular or in-line-of-duty disability benefit as provided in s.  
312 121.091(4) or qualify for a disability benefit under a  
313 disability plan established under part II of chapter 121, as  
314 appropriate.

315 (3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

316 (e)1. Beginning July 1, 2001, each eligible retiree of the  
317 pension plan ~~defined benefit program~~ of the Florida Retirement  
318 System, or, if the retiree is deceased, his or her beneficiary  
319 who is receiving a monthly benefit from such retiree's account

20112100e2

320 and who is a spouse, or a person who meets the definition of  
321 joint annuitant in s. 121.021~~(28)~~, shall receive a monthly  
322 retiree health insurance subsidy payment equal to the number of  
323 years of creditable service, as defined in s. 121.021~~(17)~~,  
324 completed at the time of retirement multiplied by \$5; however,  
325 an ~~no~~ eligible retiree or beneficiary may not receive a subsidy  
326 payment of more than \$150 or less than \$30. If there are  
327 multiple beneficiaries, the total payment may ~~must~~ not be  
328 greater than the payment to which the retiree was entitled. The  
329 health insurance subsidy amount payable to any person receiving  
330 the retiree health insurance subsidy payment on July 1, 2001,  
331 may ~~shall~~ not be reduced solely by operation of this  
332 subparagraph.

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

20112100e2

349 for a full work year if ~~whenever~~ health insurance subsidy  
350 contributions have been made ~~as required by law~~ for each month  
351 in the member's participant's work year. In addition, all years  
352 of creditable service retained under the Florida Retirement  
353 System pension plan must ~~defined benefit program shall~~ be  
354 included as creditable service for purposes of this section.  
355 Notwithstanding any other provision in this section ~~to the~~  
356 ~~contrary~~, the spouse at the time of death is ~~shall be~~ the  
357 member's participant's beneficiary unless such member  
358 ~~participant~~ has designated a different beneficiary subsequent to  
359 the member's participant's most recent marriage.

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

362 112.65 Limitation of benefits.—

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

20112100e2

378 establishes ~~has established~~ by statute, charter, or ordinance.

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

381 121.011 Florida Retirement System.—

382 (3) PRESERVATION OF RIGHTS.—

383 (h) Effective July 1, 2011, the retirement system shall  
384 require employee and employer contributions as provided in s.  
385 121.071 and part III of this chapter.

386 Section 6. Subsection (3), paragraph (a) of subsection  
387 (19), paragraphs (a) and (b) of subsection (22), subsections  
388 (24), (29), (39), (45), (55), and (59) of section 121.021,  
389 Florida Statutes, are amended, and subsection (65) is added to  
390 that section, to read:

391 121.021 Definitions.—The following words and phrases as  
392 used in this chapter have the respective meanings set forth  
393 unless a different meaning is plainly required by the context:

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

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

406 (a) Service for which the member had credit under one of

20112100e2

407 the existing systems and received a refund of his or her  
408 contributions upon termination of employment. Prior service  
409 ~~shall~~ also includes ~~include that~~ service ~~between December 1,~~  
410 ~~1970, and the date the system becomes noncontributory~~ for which  
411 the member had credit under the Florida Retirement System and  
412 received a refund of his or her contributions upon termination  
413 of employment.

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

417 (a) Before July 1, 2011, compensation includes ~~shall~~  
418 ~~include:~~

- 419 1. Overtime payments paid from a salary fund.
- 420 2. Accumulated annual leave payments.
- 421 3. Payments in addition to the employee's base rate of pay  
422 if ~~all~~ the following apply:
  - 423 a. The payments are paid according to a formal written  
424 policy that applies to all eligible employees equally;
  - 425 b. The policy provides that payments ~~shall~~ commence by ~~no~~  
426 ~~later than~~ the 11th year of employment;
  - 427 c. The payments are paid for as long as the employee  
428 continues his or her employment; and
  - 429 d. The payments are paid at least annually.
- 430 4. Amounts withheld for tax sheltered annuities or deferred  
431 compensation programs, or any other type of salary reduction  
432 plan authorized under the Internal Revenue Code.
- 433 5. Payments made in lieu of a permanent increase in the  
434 base rate of pay, whether made annually or in 12 or 26 equal  
435 payments within a 12-month period, if ~~when~~ the member's base pay

20112100e2

436 is at the maximum of his or her pay range. ~~If~~ When a portion of  
 437 a member's annual increase raises his or her pay range and the  
 438 excess is paid as a lump sum payment, ~~the such~~ such lump sum payment  
 439 is considered ~~shall be~~ compensation for retirement purposes.

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

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

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

445 b. The policy provides that payments shall commence by the  
 446 11th year of employment; and

447 c. The payments are paid at least annually.

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

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

458 4. Up to 300 hours of overtime payments paid from a salary  
 459 fund.

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



20112100e2

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

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

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

482 (a) Before July 1, 2011:

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

484 a.1. Accumulated annual leave payments, not to exceed 500  
485 hours; and

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

488 2. ~~(b)~~ The average final compensation does ~~shall~~ not  
489 include:

490 a.1. Compensation paid to professional persons for special  
491 or particular services;

492 b.2. Payments for accumulated sick leave made due to  
493 retirement or termination;

20112100e2

494 ~~c.3.~~ Payments for accumulated annual leave in excess of 500  
495 hours;

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

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

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

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

502 1. The average final compensation includes all payments  
503 defined as compensation under this section.

504 2. The average final compensation does not include:

505 a. Compensation paid to professional persons for special or  
506 particular services;

507 b. Payments for accumulated sick leave made due to  
508 retirement or termination;

509 c. Payments for accumulated annual leave;

510 d. Payments for overtime exceeding 300 hours paid from a  
511 salary fund;

512 e. Bonuses;

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

514 g. Fringe benefits, such as automobile allowances or  
515 housing allowances.

516 (29) "Normal retirement date" means the date a member  
517 attains normal retirement age and is vested, which is determined  
518 as follows:

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

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

20112100e2

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

525           (b) If a Special Risk Class member:

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

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

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

538  
539 "Normal retirement age" is attained on the "normal retirement  
540 date."

541           (39) (a) "Termination" or "terminated" means ~~occurs~~, except  
542 as provided in paragraph (b), that ~~when~~ a member ceases all  
543 employment relationships with a participating ~~an~~ employer;7  
544 however:

545           1. For retirements effective before July 1, 2010, if a  
546 member is employed by any such employer within the next calendar  
547 month, termination shall be deemed not to have occurred. A leave  
548 of absence constitutes a continuation of the employment  
549 relationship, except that a leave of absence without pay due to  
550 disability may constitute termination if such member makes  
551 application for and is approved for disability retirement in

20112100e2

552 accordance with s. 121.091(4). The department or state board may  
553 require other evidence of termination as it deems necessary.

554 2. For retirements effective on or after July 1, 2010, if a  
555 member is employed by any such employer within the next 6  
556 calendar months, termination shall be deemed not to have  
557 occurred. A leave of absence constitutes a continuation of the  
558 employment relationship, except that a leave of absence without  
559 pay due to disability may constitute termination if such member  
560 makes application for and is approved for disability retirement  
561 in accordance with s. 121.091(4). The department or state board  
562 may require other evidence of termination as it deems necessary.

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

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

574 2. For termination dates occurring on or after July 1,  
575 2010, if the member participant ~~participant~~ becomes employed by any such  
576 employer within the next 6 calendar months, termination will be  
577 deemed not to have occurred, except as provided in s.  
578 121.091(13)(b)4.c. A leave of absence constitutes a continuation  
579 of the employment relationship.

580 (c) Effective July 1, 2011, "termination" or "terminated"

20112100e2

581 means for a member receiving a refund of employee contributions  
582 that the member ceases all employment relationships with a  
583 participating employer for 3 calendar months. A leave of absence  
584 for less than 3 calendar months constitutes a continuation of an  
585 employment relationship.

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

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

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

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

20112100e2

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

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

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

618 (65) "Division" means the Division of Retirement in the  
619 department.

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

626 121.051 Participation in the system.—

627 (2) OPTIONAL PARTICIPATION.—

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

20112100e2

639 system must ~~shall~~ submit to the administrator a certified  
640 financial statement showing the condition of the local  
641 retirement system ~~as of a date~~ within 3 months before ~~prior to~~  
642 the proposed effective date of membership in the Florida  
643 Retirement System. The statement must be certified by a  
644 recognized accounting firm that is independent of the local  
645 retirement system. All required documents ~~necessary for~~  
646 ~~extending Florida Retirement System coverage~~ must be received by  
647 the department for consideration at least 15 days before ~~prior~~  
648 ~~to~~ the proposed effective date of coverage. If the governing  
649 body ~~municipality, metropolitan planning organization, or~~  
650 ~~special district~~ does not comply with this requirement, the  
651 department may require that the effective date of coverage be  
652 changed.

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

667 3. At the time of joining the Florida Retirement System,

20112100e2

668 the governing body of a municipality ~~any city~~, metropolitan  
669 planning organization, or special district complying with  
670 subparagraph 1. may elect to provide, or not provide, benefits  
671 based on past service of officers and employees as described in  
672 s. 121.081(1). However, if such employer elects to provide past  
673 service benefits, such benefits must be provided for all  
674 officers and employees of its covered group.

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

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

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

694 b. From 7 to 15 days before such hearing, notice of intent  
695 to withdraw, specifying the time and place of the hearing, must  
696 be provided in writing to employees of the hospital district



20112100e2

697 proposing partial withdrawal and must be published in a  
698 newspaper of general circulation in the area affected, as  
699 provided by ss. 50.011-50.031. Proof of publication must ~~of such~~  
700 ~~notice shall~~ be submitted to the department ~~of Management~~  
701 ~~Services~~.

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

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

719 6. Following the adoption of a resolution under sub-  
720 subparagraph 5.d., all employees of the withdrawing hospital  
721 district who were members of ~~participants in~~ the ~~Florida~~  
722 ~~Retirement~~ system before ~~prior to~~ January 1, 1996, shall remain  
723 as members of ~~participants in~~ the system for as long as they are  
724 employees of the hospital district, and all rights, duties, and  
725 obligations between the hospital district, the system, and the

20112100e2

726 employees ~~shall~~ remain in full force and effect. Any employee  
727 who is hired or appointed on or after January 1, 1996, may not  
728 participate in the ~~Florida Retirement~~ system, and the  
729 withdrawing hospital district has ~~shall have~~ no obligation to  
730 the system with respect to such employees.

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

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

20112100e2

755 Regular Class contribution rate.

756 2. The decision to participate in the ~~an~~ optional  
757 retirement program is irrevocable as long as the employee holds  
758 a position eligible for participation, except as provided in  
759 subparagraph 3. Any service creditable under the Florida  
760 Retirement System is retained after the member withdraws from  
761 the system; however, additional service credit in the system may  
762 not be earned while a member of the optional retirement program.

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

771 a. If the employee chooses to move to the investment plan  
772 ~~Public Employee Optional Retirement program~~, any contributions,  
773 interest, and earnings creditable to the employee under the  
774 ~~State Community College System~~ optional retirement program are  
775 retained by the employee in the ~~State Community College System~~  
776 optional retirement program, and the applicable provisions of s.  
777 121.4501(4) govern the election.

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

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

20112100e2

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

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

807 4. Participation in the optional retirement program is  
808 limited to employees who satisfy the following eligibility  
809 criteria:

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

20112100e2

813 (12) or s. 121.122.

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

817 (I) Instructional; or

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

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

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

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

20112100e2

842 1012.875, a written election to withdraw from the system and  
843 participate in the ~~State Community College System~~ optional  
844 retirement program is filed with the program administrator and  
845 received by the division.

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

855 b. A community college employee whose program eligibility  
856 is due to the subsequent designation of the employee's position  
857 as one of those specified in subparagraph 4., or due to the  
858 employee's appointment, promotion, transfer, or reclassification  
859 to a position specified in subparagraph 4., must be enrolled in  
860 the program on the first day of the first full calendar month  
861 that such change in status becomes effective. The employer  
862 retirement contributions paid from the effective date through  
863 the month of the employee plan change must be transferred to the  
864 community college to the employee's optional program account,  
865 and, effective the first day of the next month, the employer  
866 shall pay the applicable contributions based upon subparagraph  
867 1.

868 7. Effective July 1, 2003, through December 31, 2008, any  
869 member participant of the ~~State Community College System~~  
870 optional retirement program who has service credit in the

20112100e2

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

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

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

898 (3) SOCIAL SECURITY COVERAGE.—Social security coverage  
899 shall be provided for all officers and employees who become

20112100e2

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

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

917 121.0515 Special risk membership.—

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

924 (b) Contributions for upgrading the additional special risk  
925 credit are ~~pursuant to this subsection shall be~~ equal to the  
926 difference in the employer and, if applicable, employee  
927 contributions paid and the special risk percentage rate of gross  
928 salary in effect at the time of purchase for the period being



20112100e2

929 claimed, plus interest thereon at the rate of 4 percent a year  
930 compounded annually from the date of such service until July 1,  
931 1975, and 6.5 percent a year thereafter until the date of  
932 payment. ~~This~~ Past service may be purchased by the member or by  
933 the employer on behalf of the member.

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

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

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

955 (9) CREDIT FOR UPGRADED SERVICE.—

956 (c) Any member of the Special Risk Class who has earned  
957 creditable service in another membership class of the Florida

20112100e2

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

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

20112100e2

987 that section is amended, to read:

988 121.052 Membership class of elected officers.—

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

991 (a) An ~~Any~~ ~~duly~~ elected officer whose term of office was  
992 shortened by legislative or judicial apportionment pursuant to  
993 ~~the provisions of~~ s. 16, Art. III of the State Constitution may,  
994 after the term of office to which he or she was elected is  
995 completed, pay into the Florida Retirement System Trust Fund the  
996 amount of contributions that would have been made by the officer  
997 or the officer's employer on his or her behalf, plus 4 percent  
998 interest compounded annually from the date he or she left office  
999 until July 1, 1975, and 6.5 percent interest compounded annually  
1000 thereafter, and may receive service credit for the length of  
1001 time the officer would have served if such term had not been  
1002 shortened by apportionment.

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

20112100e2

1016 service credit in this class for the period of time being  
1017 claimed. After the date the service would have occurred, and  
1018 upon payment of the required contributions, the retirement  
1019 benefit of a retired justice or judge shall ~~will~~ be adjusted  
1020 prospectively to include the ~~this~~ additional creditable service;  
1021 however, such adjustment may be made only once.

1022 2. Any justice or judge who does not seek election to a  
1023 subsequent term of office because he or she would be prevented  
1024 under s. 8, Art. V of the State Constitution from completing  
1025 such term of office upon attaining the age of 70 years may elect  
1026 to purchase service credit for service as a temporary judge as  
1027 assigned by the court if the temporary assignment ~~follows~~  
1028 immediately follows the last full term of office served and the  
1029 purchase is limited to the number of months of service needed to  
1030 vest retirement benefits. To receive retirement credit for ~~such~~  
1031 temporary service beyond termination, the justice or judge must  
1032 pay into the Florida Retirement System Trust Fund the amount of  
1033 contributions that would have been made by the justice or judge  
1034 and the employer on his or her behalf had he or she continued in  
1035 office for the period of time being claimed, plus 6.5 percent  
1036 interest thereon compounded each June 30 from the date he or she  
1037 left office.

1038 (7) CONTRIBUTIONS.—

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

20112100e2

1045 social security coverage. Effective July 1, 2011, members of the  
1046 Elected Officers' Class shall pay retirement contributions as  
1047 specified in s. 121.71.

1048 (c) If a member of the Elected Officers' Class ceases to  
1049 fill an office covered by this class for 3 calendar months for  
1050 any reason other than retirement and has not been employed in  
1051 any capacity with any participating employer for 3 calendar  
1052 months, the member is entitled to receive a refund of all  
1053 contributions he or she made to the pension plan, subject to the  
1054 restrictions otherwise provided in this chapter. Partial refunds  
1055 are not permitted. The refund may not include any interest  
1056 earnings on contributions to the pension plan. Employer  
1057 contributions made on behalf of the member are not refundable. A  
1058 member may not receive a refund of employee contributions if a  
1059 pending or an approved qualified domestic relations order is  
1060 filed against the member's retirement account. By obtaining a  
1061 refund of contributions, a member waives all rights under the  
1062 Florida Retirement System, including the health insurance  
1063 subsidy under this subsection, to the service credit represented  
1064 by the refunded contributions, except the right to purchase  
1065 prior service credit in accordance with s. 121.081(2).

1066 (8) NORMAL RETIREMENT DATE; VESTING REQUIREMENT.—A member  
1067 of the Elected Officers' Class has ~~shall have~~ the same normal  
1068 retirement date as defined in s. 121.021~~(29)~~ for a member of the  
1069 regular class of the Florida Retirement System. A ~~Any~~ public  
1070 service commissioner who was removed from the Elected State  
1071 Officers' Class on July 1, 1979, after attaining at least 8  
1072 years of creditable service in that class is ~~shall be~~ considered  
1073 to have reached the normal retirement date upon attaining the

20112100e2

1074 required age as provided ~~62 as required~~ in s. 121.021(29)(a).

1075 Section 10. Paragraph (a) of subsection (7) of section  
1076 121.053, Florida Statutes, is amended to read:

1077 121.053 Participation in the Elected Officers' Class for  
1078 retired members.—

1079 (7) A member who is elected or appointed to an elective  
1080 office and who is participating in the Deferred Retirement  
1081 Option Program is not subject to termination as defined in s.  
1082 121.021, or reemployment limitations as provided in s.  
1083 121.091(9), until the end of his or her current term of office  
1084 or, if the officer is consecutively elected or reelected to an  
1085 elective office eligible for coverage under the Florida  
1086 Retirement System, until he or she no longer holds an elective  
1087 office, as follows:

1088 (a) At the end of the 60-month DROP period:

1089 1. The officer's DROP account may not accrue additional  
1090 monthly benefits, but does continue to earn interest as provided  
1091 in s. 121.091(13). However, an officer whose DROP participation  
1092 begins on or after July 1, 2010, may not continue to earn such  
1093 interest.

1094 2. Except for unfunded actuarial liability and health  
1095 insurance subsidy contributions required under ss. 121.71(5) and  
1096 121.76, retirement contributions are not required of the  
1097 employer of the elected officer and additional retirement credit  
1098 may not be earned under the Florida Retirement System.

1099 Section 11. Paragraphs (b) and (j) of subsection (1),  
1100 paragraph (b) of subsection (3), and paragraphs (c), (d), and  
1101 (e) of subsection (6) of section 121.055, Florida Statutes, are  
1102 amended, present paragraph (c) of subsection (3) of that section

20112100e2

1103 is redesignated as paragraph (d), and a new paragraph (c) is  
1104 added to that subsection, to read:

1105       121.055 Senior Management Service Class.—There is hereby  
1106 established a separate class of membership within the Florida  
1107 Retirement System to be known as the “Senior Management Service  
1108 Class,” which shall become effective February 1, 1987.

1109       (1)

1110       (b)1. Except as provided in subparagraph 2., effective  
1111 January 1, 1990, participation in the Senior Management Service  
1112 Class is ~~shall be~~ compulsory for the president of each community  
1113 college, the manager of each participating city or county, and  
1114 all appointed district school superintendents. Effective January  
1115 1, 1994, additional positions may be designated for inclusion in  
1116 the Senior Management Service Class if ~~of the Florida Retirement~~  
1117 ~~System, provided that:~~

1118       a. Positions to be included in the class are ~~shall be~~  
1119 designated by the local agency employer. Notice of intent to  
1120 designate positions for inclusion in the class must ~~shall~~ be  
1121 published once a week for 2 consecutive weeks in a newspaper of  
1122 general circulation published in the county or counties  
1123 affected, as provided under ~~in~~ chapter 50.

1124       b. Up to 10 nonelective full-time positions may be  
1125 designated for each local agency employer reporting to the  
1126 department ~~of Management Services~~; for local agencies with 100  
1127 or more regularly established positions, additional nonelective  
1128 full-time positions may be designated, up to ~~not to exceed~~ 1  
1129 percent of the regularly established positions within the  
1130 agency.

1131       c. Each position added to the class must be a managerial or

20112100e2

1132 policymaking position filled by an employee who is not subject  
1133 to continuing contract and serves at the pleasure of the local  
1134 agency employer without civil service protection, and who:

1135 (I) Heads an organizational unit; or

1136 (II) Has responsibility to effect or recommend personnel,  
1137 budget, expenditure, or policy decisions in his or her areas of  
1138 responsibility.

1139 2. In lieu of participation in the Senior Management  
1140 Service Class, members of the ~~Senior Management Service class,~~  
1141 pursuant to ~~the provisions of~~ subparagraph 1., may withdraw from  
1142 the Florida Retirement System altogether. The decision to  
1143 withdraw from the ~~Florida Retirement~~ system is ~~shall be~~  
1144 irrevocable ~~for~~ as long as the employee holds the ~~such a~~  
1145 position. Any service creditable under the Senior Management  
1146 Service Class shall be retained after the member withdraws from  
1147 the ~~Florida Retirement~~ system; however, additional service  
1148 credit in the Senior Management Service Class may ~~shall~~ not be  
1149 earned after such withdrawal. Such members are ~~shall~~ not be  
1150 eligible to participate in the Senior Management Service  
1151 Optional Annuity Program.

1152 3. Effective January 1, 2006, through June 30, 2006, an  
1153 employee who has withdrawn from the Florida Retirement System  
1154 under subparagraph 2. has one opportunity to elect to  
1155 participate in ~~either~~ the pension plan or investment plan  
1156 ~~defined benefit program or the Public Employee Optional~~  
1157 ~~Retirement Program~~ of the Florida Retirement System.

1158 a. If the employee elects to participate in the investment  
1159 plan ~~Public Employee Optional Retirement Program~~, membership is  
1160 ~~shall be~~ prospective, and the applicable provisions of s.



20112100e2

1161 121.4501(4) shall govern the election.

1162 b. If the employee elects to participate in the pension  
1163 plan ~~defined benefit program of the Florida Retirement System,~~  
1164 the employee shall, upon payment to the system trust fund of the  
1165 amount calculated under sub-sub-subparagraph (I), receive  
1166 service credit for prior service based upon the time during  
1167 which the employee had withdrawn from the system.

1168 (I) The cost for such credit shall be an amount  
1169 representing the actuarial accrued liability for the affected  
1170 period of service. The cost shall be calculated using the  
1171 discount rate and other relevant actuarial assumptions that were  
1172 used to value pension ~~the Florida Retirement System defined~~  
1173 ~~benefit~~ plan liabilities in the most recent actuarial valuation.  
1174 The calculation must ~~shall~~ include any service already  
1175 maintained under the pension ~~defined benefit~~ plan in addition to  
1176 the period of withdrawal. The actuarial accrued liability  
1177 attributable to any service already maintained under the pension  
1178 ~~defined benefit~~ plan shall be applied as a credit to the total  
1179 cost resulting from the calculation. The division must ~~shall~~  
1180 ensure that the transfer sum is prepared using a formula and  
1181 methodology certified by an actuary.

1182 (II) The employee must transfer a sum representing the net  
1183 cost owed for the actuarial accrued liability in sub-sub-  
1184 subparagraph (I) immediately following the time of such  
1185 movement, determined assuming that attained service equals the  
1186 sum of service in the pension plan ~~defined benefit program~~ and  
1187 the period of withdrawal.

1188 (j) Except as may otherwise be provided, a ~~any~~ member of  
1189 the Senior Management Service Class may purchase additional

20112100e2

1190 retirement credit in such class for creditable service within  
1191 the purview of the Senior Management Service Class retroactive  
1192 to February 1, 1987, and may upgrade retirement credit for such  
1193 service~~7~~ to the extent of 2 percent of the member's average  
1194 monthly compensation as specified in paragraph (4) (d) for such  
1195 service. Contributions for upgrading ~~the~~ additional Senior  
1196 Management Service credit are pursuant to this paragraph shall  
1197 be equal to the difference in the employer and, if applicable,  
1198 employee contributions paid and the Senior Management Service  
1199 Class contribution rate as a percentage of gross salary in  
1200 effect for the period being claimed, plus interest thereon at  
1201 the rate of 6.5 percent a year, compounded annually until the  
1202 date of payment. ~~The~~ This service credit may be purchased by the  
1203 employer on behalf of the member.

1204 (3)

1205 (b) The employer or member of the Senior Management Service  
1206 Class, as applicable, paying the salary of a member of the  
1207 Senior Management Service Class shall contribute an amount as  
1208 specified in this section or s. 121.71, as appropriate, which  
1209 shall constitute the entire ~~employer~~ retirement contribution  
1210 with respect to such member. The employer shall also withhold  
1211 one-half of the entire contribution of the member required for  
1212 social security coverage. Effective July 1, 2011, each member  
1213 shall pay employee contributions as specified in s. 121.71.

1214 (c) Upon termination of employment from all participating  
1215 employers for 3 calendar months as defined in s. 121.021(39) (c)  
1216 for any reason other than retirement, a member may receive a  
1217 refund of all contributions he or she has made to the pension  
1218 plan, subject to the restrictions otherwise provided in this

20112100e2

1219 chapter. Partial refunds are not permitted. The refund may not  
1220 include any interest earnings on the contributions for a member  
1221 of the pension plan. Employer contributions made on behalf of  
1222 the member are not refundable. A member may not receive a refund  
1223 of employee contributions if a pending or an approved qualified  
1224 domestic relations order is filed against the member's  
1225 retirement account. By obtaining a refund of contributions, a  
1226 member waives all rights under the Florida Retirement System and  
1227 the health insurance subsidy provided under s. 112.363 to the  
1228 service credit represented by the refunded contributions, except  
1229 the right to purchase prior service credit in accordance with s.  
1230 121.081(2).

1231 (6)

1232 (c) *Participation.*—

1233 1. An eligible employee who is employed on or before  
1234 February 1, 1987, may elect to participate in the optional  
1235 annuity program in lieu of participating ~~participation~~ in the  
1236 Senior Management Service Class. Such election must be made in  
1237 writing and filed with the department and the personnel officer  
1238 of the employer on or before May 1, 1987. An eligible employee  
1239 who is employed on or before February 1, 1987, and who fails to  
1240 make an election to participate in the optional annuity program  
1241 by May 1, 1987, shall be deemed to have elected membership in  
1242 the Senior Management Service Class.

1243 2. Except as provided in subparagraph 6., an employee who  
1244 becomes eligible to participate in the optional annuity program  
1245 by reason of initial employment commencing after February 1,  
1246 1987, may, within 90 days after the date of commencing  
1247 employment, elect to participate in the optional annuity

20112100e2

1248 program. Such election must be made in writing and filed with  
1249 the personnel officer of the employer. An eligible employee who  
1250 does not within 90 days after commencing employment elect to  
1251 participate in the optional annuity program shall be deemed to  
1252 have elected membership in the Senior Management Service Class.

1253 3. A person who is appointed to a position in the Senior  
1254 Management Service Class and who is a member of an existing  
1255 retirement system or the Special Risk or Special Risk  
1256 Administrative Support Classes of the Florida Retirement System  
1257 may elect to remain in such system or class in lieu of  
1258 participating ~~participation~~ in the Senior Management Service  
1259 Class or optional annuity program. Such election must be made in  
1260 writing and filed with the department and the personnel officer  
1261 of the employer within 90 days after ~~of~~ such appointment. An ~~Any~~  
1262 eligible employee who fails to make an election to participate  
1263 in the existing system, the Special Risk Class of the Florida  
1264 Retirement System, the Special Risk Administrative Support Class  
1265 of the Florida Retirement System, or the optional annuity  
1266 program shall be deemed to have elected membership in the Senior  
1267 Management Service Class.

1268 4. Except as provided in subparagraph 5., an employee's  
1269 election to participate in the optional annuity program is  
1270 irrevocable if the employee continues to be employed in an  
1271 eligible position and continues to meet the eligibility  
1272 requirements set forth in this paragraph.

1273 5. Effective from July 1, 2002, through September 30, 2002,  
1274 an ~~any~~ active employee in a regularly established position who  
1275 has elected to participate in the Senior Management Service  
1276 Optional Annuity Program has one opportunity to choose to move

20112100e2

1277 from the Senior Management Service Optional Annuity Program to  
1278 the Florida Retirement System's pension plan ~~System-defined~~  
1279 ~~benefit program~~.

1280 a. The election must be made in writing and must be filed  
1281 with the department and the personnel officer of the employer  
1282 before October 1, 2002, or, in the case of an active employee  
1283 who is on a leave of absence on July 1, 2002, within 90 days  
1284 after the conclusion of the leave of absence. This election is  
1285 irrevocable.

1286 b. The employee shall receive service credit under the  
1287 pension plan ~~defined benefit program of the Florida Retirement~~  
1288 ~~System~~ equal to his or her years of service under the Senior  
1289 Management Service Optional Annuity Program. The cost for such  
1290 credit is the amount representing the present value of that  
1291 employee's accumulated benefit obligation for the affected  
1292 period of service.

1293 c. The employee must transfer the total accumulated  
1294 employer contributions and earnings on deposit in his or her  
1295 Senior Management Service Optional Annuity Program account. If  
1296 the transferred amount is not sufficient to pay the amount due,  
1297 the employee must pay a sum representing the remainder of the  
1298 amount due. The employee may not retain any employer  
1299 contributions or earnings ~~thereon~~ from the Senior Management  
1300 Service Optional Annuity Program account.

1301 6. A retiree of a state-administered retirement system who  
1302 is initially reemployed on or after July 1, 2010, may not renew  
1303 membership in the Senior Management Service Optional Annuity  
1304 Program.

1305 (d) *Contributions.*—

20112100e2

1306           1.a. Through June 30, 2001, each employer shall contribute  
1307 on behalf of each member of ~~participant in~~ the Senior Management  
1308 Service Optional Annuity Program an amount equal to the normal  
1309 cost portion of the employer retirement contribution which would  
1310 be required if the employee ~~participant~~ were a Senior Management  
1311 Service Class member of the Florida Retirement System's pension  
1312 plan ~~System defined benefit program~~, plus the portion of the  
1313 contribution rate required in s. 112.363(8) which ~~that~~ would  
1314 otherwise be assigned to the Retiree Health Insurance Subsidy  
1315 Trust Fund.

1316           b. Effective July 1, 2001, each employer shall contribute  
1317 on behalf of each member of ~~participant in~~ the optional annuity  
1318 program an amount equal to 12.49 percent of the employee's  
1319 ~~participant's~~ gross monthly compensation.

1320           c. Effective July 1, 2011, each member of the optional  
1321 annuity program shall contribute an amount equal to the employee  
1322 contribution required in s. 121.71(3). The employer shall  
1323 contribute on behalf of each such employee an amount equal to  
1324 the difference between 12.49 percent of the employee's gross  
1325 monthly compensation and the amount equal to the employee's  
1326 required contribution based on the employee's gross monthly  
1327 compensation.

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

20112100e2

1335 for payment of benefits for members of ~~the participant~~ under the  
1336 optional annuity program. The department shall deduct an amount  
1337 approved by the Legislature to provide for the administration of  
1338 the program.

1339 2. Each employer shall contribute on behalf of each member  
1340 of participant in the Senior Management Service Optional Annuity  
1341 Program an amount equal to the unfunded actuarial accrued  
1342 liability portion of the employer contribution which would be  
1343 required for members of the Senior Management Service Class in  
1344 the Florida Retirement System. This contribution shall be paid  
1345 to the department for transfer to the Florida Retirement System  
1346 Trust Fund.

1347 3. An Optional Annuity Program Trust Fund shall be  
1348 established in the State Treasury and administered by the  
1349 department to make payments to provider companies on behalf of  
1350 the optional annuity program members ~~participants~~, and to  
1351 transfer the unfunded liability portion of the state optional  
1352 annuity program contributions to the Florida Retirement System  
1353 Trust Fund.

1354 4. Contributions required for social security by each  
1355 employer and each employee ~~participant~~, in the amount required  
1356 for social security coverage as now or hereafter may be provided  
1357 by the federal Social Security Act, shall be maintained for each  
1358 member of participant in the Senior Management Service  
1359 retirement program and are ~~shall be~~ in addition to the  
1360 retirement contributions specified in this paragraph.

1361 5. Each member of participant in the Senior Management  
1362 ~~Service~~ optional annuity program may contribute by way of salary  
1363 reduction or deduction a percentage amount of the employee's

20112100e2

1364 ~~participant's~~ gross compensation not to exceed the percentage  
1365 amount contributed by the employer to the optional annuity  
1366 program. Payment of the employee's ~~participant's~~ contributions  
1367 shall be made by the employer to the department, which shall  
1368 forward the contributions to the designated company or companies  
1369 contracting for payment of benefits for members ~~the participant~~  
1370 under the program.

1371 (e) *Benefits.*—

1372 1. Benefits under the Senior Management Service Optional  
1373 Annuity Program are payable only to members of ~~participants in~~  
1374 the program, or their beneficiaries as designated by the member  
1375 ~~participant~~ in the contract with the provider company, and must  
1376 be paid by the designated company in accordance with the terms  
1377 of the annuity contract applicable to the member ~~participant~~. A  
1378 member ~~participant~~ must be terminated from all employment  
1379 relationships with Florida Retirement System employers as  
1380 provided in s. 121.021(39) to begin receiving the employer-  
1381 funded and employee-funded benefit. Benefits funded by employer  
1382 and employee contributions are payable under the terms of the  
1383 contract to the member ~~participant~~, his or her beneficiary, or  
1384 his or her estate, in addition to:

1385 a. A lump-sum payment to the beneficiary upon the death of  
1386 the member ~~participant~~;

1387 b. A cash-out of a de minimis account upon the request of a  
1388 former member ~~participant~~ who has been terminated for a minimum  
1389 of 6 calendar months from the employment that entitled him or  
1390 her to optional annuity program participation. Such cash-out  
1391 must be a complete liquidation of the account balance with that  
1392 company and is subject to the Internal Revenue Code;



20112100e2

1393 c. A mandatory distribution of a de minimis account of a  
1394 former member ~~participant~~ who has been terminated for a minimum  
1395 of 6 calendar months from the employment that entitled him or  
1396 her to optional annuity program participation as authorized by  
1397 the department; or

1398 d. A lump-sum direct rollover distribution whereby all  
1399 accrued benefits, plus interest and investment earnings, are  
1400 paid from the member's ~~participant's~~ account directly to the  
1401 custodian of an eligible retirement plan, as defined in s.  
1402 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
1403 member ~~participant~~.

1404 2. Benefits are not payable for employee hardships,  
1405 unforeseeable emergencies, loans, medical expenses, educational  
1406 expenses, purchase of a principal residence, payments necessary  
1407 to prevent eviction or foreclosure on an employee's principal  
1408 residence, or any other reason before termination from all  
1409 employment relationships with participating employers, as  
1410 provided in s. 121.021(39).

1411 ~~3.2.~~ The benefits payable to any person under the ~~Senior~~  
1412 ~~Management Service~~ optional annuity program, and any  
1413 contribution accumulated under such program, are not subject to  
1414 assignment, execution, or attachment or to any legal process  
1415 ~~whatsoever~~.

1416 ~~4.3.~~ Except as provided in subparagraph ~~5. 4.~~, a member  
1417 ~~participant~~ who terminates employment and receives a  
1418 distribution, including a rollover or trustee-to-trustee  
1419 transfer, funded by employer or employee contributions ~~is shall~~  
1420 ~~be~~ deemed to be retired from a state-administered retirement  
1421 system if the retiree ~~participant~~ is subsequently employed with

20112100e2

1422 an employer that participates in the Florida Retirement System.

1423 ~~5.4.~~ A member participant who receives optional annuity  
1424 program benefits funded by employer or employee contributions as  
1425 a mandatory distribution of a de minimis account authorized by  
1426 the department is not considered a retiree.

1427  
1428 As used in this paragraph, a "de minimis account" means an  
1429 account with a provider company containing employer or employee  
1430 contributions and accumulated earnings of not more than \$5,000  
1431 made under this chapter.

1432 Section 12. Subsections (2) and (5) and paragraph (c) of  
1433 subsection (6) of section 121.071, Florida Statutes, are  
1434 amended, present paragraph (d) of subsection (6) of that section  
1435 is redesignated as paragraph (e), and a new paragraph (d) is  
1436 added to that subsection, to read:

1437 121.071 Contributions.—Contributions to the system shall be  
1438 made as follows:

1439 (2) (a) Effective January 1, 1975, or October 1, 1975, as  
1440 applicable, and through June 30, 2011, each employer shall make  
1441 ~~accomplish~~ the contribution required by subsection (1) by a  
1442 procedure in which no employee's gross salary is ~~shall be~~  
1443 reduced. Effective July 1, 2011, each employee, and his or her  
1444 employer, shall pay retirement contributions as specified in s.  
1445 121.71.

1446 (b) Upon termination of employment from all participating  
1447 employers for 3 calendar months as defined in s. 121.021(39) (c)  
1448 for any reason other than retirement, a member may receive a  
1449 ~~shall be entitled to a full~~ refund of all ~~the~~ contributions he  
1450 or she ~~has made to the pension prior or subsequent to~~

20112100e2

1451 ~~participation in the noncontributory plan, subject to the~~  
1452 ~~restrictions otherwise provided in this chapter. Partial refunds~~  
1453 ~~are not permitted. The refund may not include any interest~~  
1454 ~~earnings on the contributions for a member of the pension plan.~~  
1455 ~~Employer contributions made on behalf of the member are not~~  
1456 ~~refundable. A member may not receive a refund of employee~~  
1457 ~~contributions if a pending or an approved qualified domestic~~  
1458 ~~relations order is filed against his or her retirement account.~~  
1459 ~~By obtaining a refund of contributions, a member waives all~~  
1460 ~~rights under the Florida Retirement System and the health~~  
1461 ~~insurance subsidy to the service credit represented by the~~  
1462 ~~refunded contributions, except the right to purchase prior~~  
1463 ~~service credit in accordance with s. 121.081(2).~~

1464 (5) Contributions made in accordance with subsections (1),  
1465 (2), (3), and (4), and s. 121.71 shall be paid ~~by the employer~~  
1466 into the system trust funds in accordance with rules adopted by  
1467 the administrator pursuant to chapter 120, except as ~~may be~~  
1468 otherwise specified herein. Effective July 1, 2002,  
1469 contributions paid under subsections (1) and (4) and  
1470 accompanying payroll data are due and payable by no later than  
1471 the 5th working day of the month immediately following the month  
1472 during which the payroll period ended.

1473 (6)

1474 (c) By obtaining a refund of contributions, a member waives  
1475 all rights under the Florida Retirement System, including the  
1476 health insurance subsidy under subsection (4), to the service  
1477 credit represented by the refunded contributions, except the  
1478 right to purchase ~~his or her~~ prior service credit in accordance  
1479 with s. 121.081(2).

20112100e2

1480       (d) If a member or former member of the pension plan  
1481 receives an invalid refund from the Florida Retirement System  
1482 Trust Fund, such person must repay the full amount of the  
1483 refund, plus interest at 6.5 percent compounded annually on each  
1484 June 30 from the date of refund until full repayment is made.  
1485 The invalid refund must be repaid before the member retires or,  
1486 if applicable, transfers to the investment plan.

1487       Section 13. Paragraphs (b) and (c) of subsection (1) and  
1488 subsection (2) of section 121.081, Florida Statutes, are amended  
1489 to read:

1490       121.081 Past service; prior service; contributions.—  
1491 Conditions under which past service or prior service may be  
1492 claimed and credited are:

1493       (1)

1494       (b) Past service earned after January 1, 1975, may be  
1495 claimed by officers or employees of a municipality, metropolitan  
1496 planning organization, charter school, charter technical career  
1497 center, or special district who become a covered group under  
1498 this system. The governing body of a covered group may elect to  
1499 provide benefits for past service earned after January 1, 1975,  
1500 in accordance with this chapter.~~7~~ and The cost for such past  
1501 service is established by applying the following formula: The  
1502 employer shall contribute an amount equal to the employer or  
1503 employee contribution rate in effect at the time the service was  
1504 earned, as applicable, multiplied by the employee's gross salary  
1505 for each year of past service claimed, plus 6.5 percent ~~6.5-~~  
1506 ~~percent~~ interest thereon, compounded annually, for ~~figured on~~  
1507 each year of past service, with interest compounded from date of  
1508 annual salary earned until date of payment.

20112100e2

1509 (c) If an ~~Should the~~ employer does not elect to provide  
1510 past service for the member on the date of joining the system,  
1511 ~~then~~ the member may claim and pay for the service as provided in  
1512 ~~same, based on~~ paragraphs (a) and (b).

1513 (2) Prior service, as defined in s. 121.021~~(19)~~, may be  
1514 claimed as creditable service under the Florida Retirement  
1515 System after a member has been reemployed for 1 complete year of  
1516 creditable service ~~within a period of 12 consecutive months,~~  
1517 except as provided in paragraph (c). Service performed as a  
1518 member participant of the optional retirement program for the  
1519 State University System under s. 121.35 or the Senior Management  
1520 Service Optional Annuity Program under s. 121.055 may be used to  
1521 satisfy the reemployment requirement of 1 complete year of  
1522 creditable service. The member may ~~shall not be permitted to~~  
1523 make any contributions for prior service until after completion  
1524 of the 1 year of creditable service. If a member does not wish  
1525 to claim credit for all of his or her prior service, the service  
1526 the member claims must be the most recent period of service. The  
1527 required contributions for claiming the various types of prior  
1528 service are:

1529 (a) For prior service performed before ~~prior to~~ the date  
1530 the system becomes noncontributory for the member and for which  
1531 the member had credit under one of the existing retirement  
1532 systems and received a refund of contributions upon termination  
1533 of employment, the member shall contribute 4 percent of all  
1534 salary received during the period being claimed, plus 4 percent  
1535 ~~4 percent~~ interest compounded annually from date of refund until  
1536 July 1, 1975, and 6.5 percent ~~6.5 percent~~ interest compounded  
1537 annually thereafter, until full payment is made to the Florida

20112100e2

1538 Retirement System Trust Fund, and shall receive credit in the  
1539 Regular Class. A member who elected to transfer to the Florida  
1540 Retirement System from an existing system may receive credit for  
1541 prior service under the existing system if he or she was  
1542 eligible under the existing system to claim the prior service at  
1543 the time of the transfer. Contributions for such prior service  
1544 shall be determined by the applicable provisions of the system  
1545 under which the prior service is claimed and shall be paid by  
1546 the member, with matching contributions paid by the employer at  
1547 the time the service was performed. Effective July 1, 1978, the  
1548 account of a person who terminated under s. 238.05(3) may not be  
1549 charged interest for contributions that remained on deposit in  
1550 the Annuity Savings Trust Fund established under chapter 238,  
1551 upon retirement under this chapter or chapter 238.

1552 (b) For prior service performed before ~~prior to~~ the date  
1553 the system becomes noncontributory for the member and for which  
1554 the member had credit under the Florida Retirement System and  
1555 received a refund of contributions upon termination of  
1556 employment, the member shall contribute at the rate that was  
1557 required of him or her during the period of service being  
1558 claimed, on all salary received during such period, plus 4  
1559 percent ~~4-percent~~ interest compounded annually from date of  
1560 refund until July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest  
1561 compounded annually thereafter, until the full payment is made  
1562 to the Florida Retirement System Trust Fund, and ~~shall~~ receive  
1563 credit in the membership class in which the member participated  
1564 during the period claimed.

1565 (c) For prior service as defined in s. 121.021(19) (b) and  
1566 (c) during which no contributions were made because the member

20112100e2

1567 did not participate in a retirement system, the member shall  
1568 contribute 14.38 percent of all salary received during such  
1569 period or 14.38 percent of \$100 per month during such period,  
1570 whichever is greater, plus 4 percent ~~4 percent~~ interest  
1571 compounded annually from the first year of service claimed until  
1572 July 1, 1975, and 6.5 percent ~~6.5 percent~~ interest compounded  
1573 annually thereafter, until full payment is made to the  
1574 Retirement Trust Fund, and shall receive credit in the Regular  
1575 Class.

1576 (d) In order to claim credit for prior service as defined  
1577 in s. 121.021(19) (d) for which no retirement contributions were  
1578 paid during the period of such service, the member shall  
1579 contribute the total employee and employer contributions which  
1580 were required to be made to the Highway Patrol Pension Trust  
1581 Fund, as provided in chapter 321, during the period claimed,  
1582 plus 4 percent ~~4 percent~~ interest compounded annually from the  
1583 first year of service until July 1, 1975, and 6.5 percent ~~6.5-~~  
1584 ~~percent~~ interest compounded annually thereafter, until full  
1585 payment is made to the Retirement Trust Fund. However, any  
1586 governmental entity that ~~which~~ employed such member may elect to  
1587 pay up to 50 percent of the contributions and interest required  
1588 to purchase the ~~this~~ prior service credit. The service shall be  
1589 credited in accordance with the ~~provisions of the~~ Highway Patrol  
1590 Pension Plan in effect during the period claimed unless the  
1591 member terminated and withdrew his or her retirement  
1592 contributions and was thereafter enrolled in the State and  
1593 County Officers and Employees' Retirement System or the Florida  
1594 Retirement System, in which case the service shall be credited  
1595 as Regular Class service.

20112100e2

1596 (e) For service performed under the Florida Retirement  
1597 System after December 1, 1970, which ~~that~~ was never reported to  
1598 the division or the department due to error, retirement credit  
1599 may be claimed by a member of the Florida Retirement System. The  
1600 department shall adopt rules establishing criteria for claiming  
1601 such credit and detailing the documentation required to  
1602 substantiate the error.

1603 (f) For prior service performed on or after July 1, 2011,  
1604 for which the member had credit under the Florida Retirement  
1605 System and received a refund of contributions 3 calendar months  
1606 after termination of employment, the member shall contribute at  
1607 the rate that was required during the period of service being  
1608 claimed, plus 6.5 percent interest, compounded annually on each  
1609 June 30 from date of refund until the full payment is made to  
1610 the Florida Retirement System Trust Fund, and shall receive  
1611 credit in the membership class in which the member participated  
1612 during the period claimed.

1613 (g) ~~(f)~~ The employer may not ~~be required to~~ make  
1614 contributions for prior service credit for any member, except  
1615 that the employer shall pay the employer portion of  
1616 contributions for any legislator who elects to withdraw from the  
1617 Florida Retirement System and later rejoins the system and pays  
1618 any employee contributions required in accordance with s.  
1619 121.052(3)(d).

1620 Section 14. Paragraph (a) of subsection (3), paragraph (a)  
1621 of subsection (4), paragraphs (a) and (c) of subsection (5),  
1622 paragraph (d) of subsection (9), paragraphs (a) and (c) of  
1623 subsection (13), and paragraph (d) of subsection (14) of section  
1624 121.091, Florida Statutes, are amended to read:



20112100e2

1625           121.091 Benefits payable under the system.—Benefits may not  
1626 be paid under this section unless the member has terminated  
1627 employment as provided in s. 121.021(39) (a) or begun  
1628 participation in the Deferred Retirement Option Program as  
1629 provided in subsection (13), and a proper application has been  
1630 filed in the manner prescribed by the department. The department  
1631 may cancel an application for retirement benefits when the  
1632 member or beneficiary fails to timely provide the information  
1633 and documents required by this chapter and the department's  
1634 rules. The department shall adopt rules establishing procedures  
1635 for application for retirement benefits and for the cancellation  
1636 of such application when the required information or documents  
1637 are not received.

1638           (3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or her  
1639 early retirement date, the member shall receive an immediate  
1640 monthly benefit that shall begin to accrue on the first day of  
1641 the month of the retirement date and be payable on the last day  
1642 of that month and each month thereafter during his or her  
1643 lifetime. Such benefit shall be calculated as follows:

1644           (a) The amount of each monthly payment shall be computed in  
1645 the same manner as ~~for~~ a normal retirement benefit, in  
1646 accordance with subsection (1), but shall be based on the  
1647 member's average monthly compensation and creditable service as  
1648 of the member's early retirement date. The benefit so computed  
1649 shall be reduced by five-twelfths of 1 percent for each complete  
1650 month by which the early retirement date precedes the normal  
1651 retirement date ~~of age 62 for a member of the Regular Class,~~  
1652 ~~Senior Management Service Class, or the Elected Officers' Class,~~  
1653 ~~and age 55 for a member of the Special Risk Class, or age 52 if~~

20112100e2

1654 a ~~Special Risk member has completed 25 years of creditable~~  
1655 ~~service~~ in accordance with s. 121.021(29) ~~(b)3~~.

1656 (4) DISABILITY RETIREMENT BENEFIT.—

1657 (a) *Disability retirement; entitlement and effective date.*—

1658 1.a. A member who becomes totally and permanently disabled,  
1659 as defined in paragraph (b), after completing 5 years of  
1660 creditable service, or a member who becomes totally and  
1661 permanently disabled in the line of duty regardless of service,  
1662 is ~~shall be~~ entitled to a monthly disability benefit; except  
1663 that any member with less than 5 years of creditable service on  
1664 July 1, 1980, or any person who becomes a member of the Florida  
1665 Retirement System on or after such date must have completed 10  
1666 years of creditable service before ~~prior to~~ becoming totally and  
1667 permanently disabled in order to receive disability retirement  
1668 benefits for any disability which occurs other than in the line  
1669 of duty. However, if a member employed on July 1, 1980, having  
1670 ~~with~~ less than 5 years of creditable service as of that date,  
1671 becomes totally and permanently disabled after completing 5  
1672 years of creditable service and is found not to have attained  
1673 fully insured status for benefits under the federal Social  
1674 Security Act, such member is ~~shall be~~ entitled to a monthly  
1675 disability benefit.

1676 b. Effective July 1, 2001, a member of the pension plan  
1677 ~~defined benefit retirement program~~ who becomes totally and  
1678 permanently disabled, as defined in paragraph (b), after  
1679 completing 8 years of creditable service, or a member who  
1680 becomes totally and permanently disabled in the line of duty  
1681 regardless of service, is ~~shall be~~ entitled to a monthly  
1682 disability benefit.

20112100e2

1683           2. If the division has received from the employer the  
1684 required documentation of the member's termination of  
1685 employment, the effective retirement date for a member who  
1686 applies and is approved for disability retirement shall be  
1687 established by rule of the division.

1688           3. For a member who is receiving Workers' Compensation  
1689 payments, the effective disability retirement date may not  
1690 precede the date the member reaches Maximum Medical Improvement  
1691 (MMI), unless the member terminates employment before ~~prior to~~  
1692 reaching MMI.

1693           (5) TERMINATION BENEFITS.—A member whose employment is  
1694 terminated before ~~prior to~~ retirement retains membership rights  
1695 to previously earned member-noncontributory service credit, and  
1696 to member-contributory service credit, if the member leaves the  
1697 member contributions on deposit in his or her retirement  
1698 account. If a terminated member receives a refund of member  
1699 contributions, such member may reinstate membership rights to  
1700 the previously earned service credit represented by the refund  
1701 by completing 1 year of creditable service and repaying the  
1702 refunded member contributions, plus interest.

1703           (a) A member whose employment is terminated for any reason  
1704 other than death or retirement before ~~prior to~~ becoming vested  
1705 is entitled to the return of his or her accumulated employee  
1706 contributions as of the date of termination. Effective July 1,  
1707 2011, upon termination of employment from all participating  
1708 employers for 3 calendar months as defined in s. 121.021(39)(c)  
1709 for any reason other than retirement, a member may receive a  
1710 refund of all contributions he or she has made to the pension  
1711 plan, subject to the restrictions otherwise provided in this

20112100e2

1712 chapter. Partial refunds are not permitted. The refund may not  
1713 include any interest earnings on the contributions for a member  
1714 of the pension plan. Employer contributions made on behalf of  
1715 the member are not refundable. A member may not receive a refund  
1716 of employee contributions if a pending or an approved qualified  
1717 domestic relations order is filed against his or her retirement  
1718 account. By obtaining a refund of contributions, a member waives  
1719 all rights under the Florida Retirement System and the health  
1720 insurance subsidy to the service credit represented by the  
1721 refunded contributions, except the right to purchase prior  
1722 service credit in accordance with s. 121.081(2).

1723 (c) In lieu of the deferred monthly benefit provided in  
1724 paragraph (b), the terminated member may elect to receive a  
1725 lump-sum amount equal to his or her accumulated employee  
1726 contributions as of the date of termination. Effective July 1,  
1727 2011, upon termination of employment from all participating  
1728 employers for 3 calendar months as defined in s. 121.021(39) (c)  
1729 for any reason other than retirement, a member may receive a  
1730 refund of all contributions he or she has made to the pension  
1731 plan, subject to the restrictions otherwise provided in this  
1732 chapter. Partial refunds are not permitted. The refund may not  
1733 include any interest earnings on the contributions for a member  
1734 of the pension plan. Employer contributions made on behalf of  
1735 the member are not refundable. A member may not receive a refund  
1736 of employee contributions if a pending or an approved qualified  
1737 domestic relations order is filed against his or her retirement  
1738 account. By obtaining a refund of contributions, a member waives  
1739 all rights under the Florida Retirement System and the health  
1740 insurance subsidy to the service credit represented by the

20112100e2

1741 refunded contributions, except the right to purchase prior  
1742 service credit in accordance with s. 121.081(2).

1743 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

1744 (d) ~~The provisions of~~ This subsection applies ~~apply~~ to  
1745 retirees, as defined in s. 121.4501(2), of the Florida Public  
1746 ~~Employee Optional Retirement System Investment Plan Program,~~  
1747 subject to the following conditions:

1748 1. The retiree ~~retirees~~ may not be reemployed with an  
1749 employer participating in the Florida Retirement System until  
1750 such person has been retired for 6 calendar months.

1751 2. A retiree employed in violation of this subsection and  
1752 an employer that employs or appoints such person are jointly and  
1753 severally liable for reimbursement of any benefits paid to the  
1754 retirement trust fund from which the benefits were paid,  
1755 ~~including the Retirement System Trust Fund and the Public~~  
1756 ~~Employee Optional Retirement Program Trust Fund, as appropriate.~~  
1757 The employer must have a written statement from the retiree that  
1758 he or she is not retired from a state-administered retirement  
1759 system.

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

20112100e2

1770 termination of employment, the participant shall receive the  
1771 total DROP benefits and begin to receive the previously  
1772 determined normal retirement benefits. Participation in the DROP  
1773 does not guarantee employment for the specified period of DROP.  
1774 Participation in DROP by an eligible member beyond the initial  
1775 60-month period as authorized in this subsection shall be on an  
1776 annual contractual basis for all participants.

1777 (a) *Eligibility of member to participate in DROP.*—All  
1778 active Florida Retirement System members in a regularly  
1779 established position, and all active members of the Teachers'  
1780 Retirement System established in chapter 238 or the State and  
1781 County Officers' and Employees' Retirement System established in  
1782 chapter 122, which are consolidated within the Florida  
1783 Retirement System under s. 121.011, are eligible to elect  
1784 participation in DROP if:

1785 1. The member is not a renewed member under s. 121.122 or a  
1786 member of the State Community College System Optional Retirement  
1787 Program under s. 121.051, the Senior Management Service Optional  
1788 Annuity Program under s. 121.055, or the optional retirement  
1789 program for the State University System under s. 121.35.

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

20112100e2

1799 following his or her maximum DROP deferral date, except as  
1800 provided in subparagraph 6., loses a month of DROP participation  
1801 for each month delayed. A member who fails to make an election  
1802 within the 12-month limitation period forfeits all rights to  
1803 participate in DROP. The member shall advise his or her employer  
1804 and the division in writing of the date DROP begins. The  
1805 beginning date may be subsequent to the 12-month election period  
1806 but must be within the original 60-month participation period  
1807 provided in subparagraph (b)1. When establishing eligibility ~~of~~  
1808 ~~the member~~ to participate in DROP, the member may elect to  
1809 include or exclude any optional service credit purchased by the  
1810 member from the total service used to establish the normal  
1811 retirement date. A member who has dual normal retirement dates  
1812 is eligible to elect to participate in DROP after attaining  
1813 normal retirement date in either class.

1814 3. The employer of a member electing to participate in  
1815 DROP, or employers if dually employed, shall acknowledge in  
1816 writing to the division the date the member's participation in  
1817 DROP begins and the date the member's employment and DROP  
1818 participation terminates ~~will terminate~~.

1819 4. Simultaneous employment of a member participant by  
1820 additional Florida Retirement System employers subsequent to the  
1821 commencement of a member's participation in DROP is permissible  
1822 if such employers acknowledge in writing a DROP termination date  
1823 no later than the member's participant's existing termination  
1824 date or the maximum participation period provided in  
1825 subparagraph (b)1.

1826 5. A member ~~DROP participant~~ may change employers while  
1827 participating in DROP, subject to the following:

20112100e2

1828           a. A change of employment must take place without a break  
1829 in service so that the member receives salary for each month of  
1830 continuous DROP participation. If a member receives no salary  
1831 during a month, DROP participation ceases ~~shall cease~~ unless the  
1832 employer verifies a continuation of the employment relationship  
1833 for such member ~~participant~~ pursuant to s. 121.021(39)(b).

1834           b. The member ~~Such participant~~ and new employer ~~shall~~  
1835 notify the division of the identity of the new employer on forms  
1836 required by the division.

1837           c. The new employer acknowledges ~~shall acknowledge~~, in  
1838 writing, the member's ~~participant's~~ DROP termination date, which  
1839 may be extended but not beyond the maximum participation period  
1840 provided in subparagraph (b)1., acknowledges ~~shall acknowledge~~  
1841 liability for any additional retirement contributions and  
1842 interest required if the member ~~participant~~ fails to timely  
1843 terminate employment, and is subject to the adjustment required  
1844 in sub-subparagraph (c)5.d.

1845           6. Effective July 1, 2001, for instructional personnel as  
1846 defined in s. 1012.01(2), election to participate in DROP may be  
1847 made at any time following the date on which the member first  
1848 reaches normal retirement date. The member shall advise his or  
1849 her employer and the division in writing of the date on which  
1850 DROP begins. When establishing eligibility of the member to  
1851 participate in DROP for the 60-month participation period  
1852 provided in subparagraph (b)1., the member may elect to include  
1853 or exclude any optional service credit purchased by the member  
1854 from the total service used to establish the normal retirement  
1855 date. A member who has dual normal retirement dates is eligible  
1856 to elect to participate in either class.



20112100e2

1857 7. The effective date for DROP participation is before July  
1858 1, 2016.

1859 (1) Closure of program to new participants.-Effective July  
1860 1, 2016, DROP is closed to new participants. Only members whose  
1861 DROP effective date is before July 1, 2016, may participate in  
1862 DROP.

1863 *(c) Benefits payable under DROP.-*

1864 1. Effective on the date of DROP participation, the  
1865 member's initial normal monthly benefit, including creditable  
1866 service, optional form of payment, and average final  
1867 compensation, and the effective date of retirement are fixed.  
1868 The beneficiary established under the Florida Retirement System  
1869 is the beneficiary eligible to receive any DROP benefits payable  
1870 if the DROP participant dies before completing the period of  
1871 DROP participation. If a joint annuitant predeceases the member,  
1872 the member may name a beneficiary to receive accumulated DROP  
1873 benefits payable. The retirement benefit, the annual cost of  
1874 living adjustments provided in s. 121.101, and interest accrue  
1875 monthly in the Florida Retirement System Trust Fund.

1876 a. For members initially enrolled in the system before July  
1877 1, 2011, the interest accrues at an effective annual rate of 6.5  
1878 percent compounded monthly, on the prior month's accumulated  
1879 ending balance, up to the month of termination or death, except  
1880 as provided in s. 121.053(7).

1881 b. For members initially enrolled in the system on or after  
1882 July 1, 2011, the interest accrues at an effective annual rate  
1883 of 2 percent compounded monthly, on the prior month's  
1884 accumulated ending balance, up to the month of termination or  
1885 death, except as provided in s. 121.053(7).

20112100e2

1886           2. Each employee who elects to participate in DROP may  
1887 elect to receive a lump-sum payment for accrued annual leave  
1888 earned in accordance with agency policy upon beginning  
1889 participation in DROP. The accumulated leave payment certified  
1890 to the division upon commencement of DROP shall be included in  
1891 the calculation of the member's average final compensation. The  
1892 employee electing the lump-sum payment is not eligible to  
1893 receive a second lump-sum payment upon termination, except to  
1894 the extent the employee has earned additional annual leave  
1895 which, combined with the original payment, does not exceed the  
1896 maximum lump-sum payment allowed by the employing agency's  
1897 policy or rules. An early lump-sum payment shall be based on the  
1898 hourly wage of the employee at the time he or she begins  
1899 participation in DROP. If the member elects to wait and receive  
1900 a lump-sum payment upon termination of DROP and termination of  
1901 employment with the employer, any accumulated leave payment made  
1902 at that time may not be included in the member's retirement  
1903 benefit, which was determined and fixed by law when the employee  
1904 elected to participate in DROP.

1905           3. The effective date of DROP participation and the  
1906 effective date of retirement of a DROP participant shall be the  
1907 first day of the month selected by the member to begin  
1908 participation in DROP, provided such date is properly  
1909 established, with the written confirmation of the employer, and  
1910 the approval of the division, on forms required by the division.

1911           4. Normal retirement benefits and any interest ~~shall~~  
1912 continue to accrue in DROP until the established termination  
1913 date of DROP or until the member participant terminates  
1914 employment or dies before ~~prior to~~ such date, except as provided

20112100e2

1915 in s. 121.053(7). Although individual DROP accounts may ~~shall~~  
1916 not be established, a separate accounting of each member's  
1917 ~~participant's~~ accrued benefits under DROP shall be calculated  
1918 and provided to the member ~~participants~~.

1919 5. At the conclusion of the member's participation in the  
1920 ~~participant's~~ DROP, the division shall distribute the member's  
1921 ~~participant's~~ total accumulated DROP benefits, subject to the  
1922 following:

1923 a. The division shall receive verification by the member's  
1924 ~~participant's~~ employer or employers that the member ~~participant~~  
1925 has terminated all employment relationships as provided in s.  
1926 121.021(39).

1927 b. The terminated DROP participant or, if deceased, the  
1928 member's ~~participant's~~ named beneficiary, shall elect on forms  
1929 provided by the division to receive payment of the DROP benefits  
1930 in accordance with one of the options listed below. If a member  
1931 ~~participant~~ or beneficiary fails to elect a method of payment  
1932 within 60 days after termination of DROP, the division shall pay  
1933 a lump sum as provided in sub-sub-subparagraph (I).

1934 (I) Lump sum.—All accrued DROP benefits, plus interest,  
1935 less withholding taxes remitted to the Internal Revenue Service,  
1936 shall be paid to the DROP participant or surviving beneficiary.

1937 (II) Direct rollover.—All accrued DROP benefits, plus  
1938 interest, shall be paid from DROP directly to the custodian of  
1939 an eligible retirement plan as defined in s. 402(c)(8)(B) of the  
1940 Internal Revenue Code. However, in the case of an eligible  
1941 rollover distribution to the surviving spouse of a deceased  
1942 member ~~participant~~, an eligible retirement plan is an individual  
1943 retirement account or an individual retirement annuity as

20112100e2

1944 described in s. 402(c)(9) of the Internal Revenue Code.

1945 (III) Partial lump sum.—A portion of the accrued DROP  
1946 benefits shall be paid to DROP participant or surviving spouse,  
1947 less withholding taxes remitted to the Internal Revenue Service,  
1948 and the remaining DROP benefits must be transferred directly to  
1949 the custodian of an eligible retirement plan as defined in s.  
1950 402(c)(8)(B) of the Internal Revenue Code. However, in the case  
1951 of an eligible rollover distribution to the surviving spouse of  
1952 a deceased member ~~participant~~, an eligible retirement plan is an  
1953 individual retirement account or an individual retirement  
1954 annuity as described in s. 402(c)(9) of the Internal Revenue  
1955 Code. The proportions must be specified by the DROP participant  
1956 or surviving beneficiary.

1957 c. The form of payment selected by the DROP participant or  
1958 surviving beneficiary must comply with the minimum distribution  
1959 requirements of the Internal Revenue Code.

1960 d. A DROP participant who fails to terminate all employment  
1961 relationships as provided in s. 121.021(39) shall be deemed as  
1962 not retired, and the DROP election is null and void. Florida  
1963 Retirement System membership shall be reestablished  
1964 retroactively to the date of the commencement of DROP, and each  
1965 employer with whom the member ~~participant~~ continues employment  
1966 must pay to the Florida Retirement System Trust Fund the  
1967 difference between the DROP contributions paid in paragraph (i)  
1968 and the contributions required for the applicable Florida  
1969 Retirement System class of membership during the period the  
1970 member participated in DROP, plus 6.5 percent interest  
1971 compounded annually.

1972 6. The retirement benefits of any DROP participant who

20112100e2

1973 terminates all employment relationships as provided in s.  
1974 121.021(39) but is reemployed in violation of the reemployment  
1975 provisions of subsection (9) are ~~shall be~~ suspended during those  
1976 months in which the retiree is in violation. Any retiree in  
1977 violation of this subparagraph and any employer that employs or  
1978 appoints such person without notifying the division ~~of~~  
1979 ~~Retirement~~ to suspend retirement benefits are jointly and  
1980 severally liable for any benefits paid during the reemployment  
1981 limitation period. The employer must have a written statement  
1982 from the retiree that he or she is not retired from a state-  
1983 administered retirement system. Any retirement benefits received  
1984 by a retiree while employed in violation of the reemployment  
1985 limitations must be repaid to the Florida Retirement System  
1986 Trust Fund, and his or her retirement benefits shall remain  
1987 suspended until payment is made. Benefits suspended beyond the  
1988 end of the reemployment limitation period apply toward repayment  
1989 of benefits received in violation of the reemployment  
1990 limitation.

1991 7. The accrued benefits of any DROP participant, and any  
1992 contributions accumulated under the program, are not subject to  
1993 assignment, execution, attachment, or any legal process  
1994 ~~whatsoever,~~ except for qualified domestic relations court orders  
1995 ~~by a court of competent jurisdiction,~~ income deduction orders as  
1996 provided in s. 61.1301, and federal income tax levies.

1997 8. DROP participants are not eligible for disability  
1998 retirement benefits as provided in subsection (4).

1999 (14) PAYMENT OF BENEFITS.—This subsection applies to the  
2000 payment of benefits to a payee (retiree or beneficiary) under  
2001 the Florida Retirement System:

20112100e2

2002 (d) A payee whose retirement benefits are reduced by the  
2003 application of maximum benefit limits under s. 415(b) of the  
2004 Internal Revenue Code, as specified in s. 121.30(5), shall have  
2005 the portion of his or her calculated benefit in the Florida  
2006 Retirement System's pension ~~System defined benefit~~ plan which  
2007 exceeds such federal limitation paid through the Florida  
2008 Retirement System Preservation of Benefits Plan, as provided in  
2009 s. 121.1001.

2010 Section 15. Subsection (1) and paragraph (a) of subsection  
2011 (2) of section 121.1001, Florida Statutes, are amended to read:  
2012 121.1001 Florida Retirement System Preservation of Benefits  
2013 Plan.—Effective July 1, 1999, the Florida Retirement System  
2014 Preservation of Benefits Plan is established as a qualified  
2015 governmental excess benefit arrangement pursuant to s. 415(m) of  
2016 the Internal Revenue Code. The Preservation of Benefits Plan is  
2017 created as a separate portion of the Florida Retirement System,  
2018 for the purpose of providing benefits to a payee (retiree or  
2019 beneficiary) of the Florida Retirement System whose benefits  
2020 would otherwise be limited by s. 415(b) of the Internal Revenue  
2021 Code.

2022 (1) ELIGIBILITY TO PARTICIPATE IN THE PRESERVATION OF  
2023 BENEFITS PLAN.—A payee of the Florida Retirement System shall  
2024 participate in the Preservation of Benefits Plan if ~~whenever~~ his  
2025 or her earned benefit under the Florida Retirement System's  
2026 pension ~~System defined benefit~~ plan exceeds the benefit maximum  
2027 established under s. 415(b) of the Internal Revenue Code.  
2028 Participation in the Preservation of Benefits Plan shall  
2029 continue for as long as the payee's earned benefit under the  
2030 pension ~~Florida Retirement System defined benefit~~ plan is

20112100e2

2031 reduced by the application of the maximum benefit limit under s.  
2032 415(b) of the Internal Revenue Code.

2033 (2) BENEFITS PAYABLE UNDER THE PRESERVATION OF BENEFITS  
2034 PLAN.—

2035 (a) On and after July 1, 1999, the division of ~~Retirement~~  
2036 shall pay to each eligible payee of the Florida Retirement  
2037 System who retires before, on, or after that ~~such~~ date, a  
2038 supplemental retirement benefit equal to the difference between  
2039 the amount of the payee's monthly retirement benefit which would  
2040 have been payable under the Florida Retirement System's pension  
2041 ~~System defined benefit~~ plan if not for a reduction due to the  
2042 application of s. 415(b) of the Internal Revenue Code and the  
2043 reduced monthly retirement benefit as paid to the payee. The  
2044 Preservation of Benefits Plan benefit shall be computed and  
2045 payable under the same terms and conditions and to the same  
2046 person as would have applied under the pension Florida  
2047 ~~Retirement System defined benefit~~ plan were it not for the  
2048 federal limitation.

2049 Section 16. Subsections (1) and (3) of section 121.101,  
2050 Florida Statutes, are amended, present subsections (4) through  
2051 (7) of that section are redesignated as subsections (5) through  
2052 (8), respectively, and a new subsection (4) is added to that  
2053 section, to read:

2054 121.101 Cost-of-living adjustment of benefits.—

2055 (1) The purpose of this section is to provide cost-of-  
2056 living adjustments to the monthly benefits payable to ~~all~~  
2057 retired members of state-supported retirement systems.

2058 (3) Commencing July 1, 1987, the benefit of each retiree  
2059 and annuitant retiring before July 1, 2011, shall be adjusted

20112100e2

2060 annually on ~~each~~ July 1 ~~thereafter~~, as follows:

2061 (a) For those retirees and annuitants who have never  
2062 received a cost-of-living adjustment under this section, the  
2063 amount of the monthly benefit payable for the 12-month period  
2064 commencing on the adjustment date shall be the amount of the  
2065 member's initial benefit plus an amount equal to a percentage of  
2066 the member's initial benefit; this percentage is derived by  
2067 dividing the number of months the member has received an initial  
2068 benefit by 12, and multiplying the result by 3.

2069 (b) For those retirees and annuitants who have received a  
2070 cost-of-living adjustment under this subsection ~~section~~, the  
2071 adjusted monthly benefit shall be the amount of the monthly  
2072 benefit being received on June 30 immediately preceding the  
2073 adjustment date plus an amount equal to 3 percent of this  
2074 benefit.

2075 (4) For members retiring on or after July 1, 2011, the  
2076 benefit of each retiree and annuitant shall be adjusted annually  
2077 on July 1 as follows:

2078 (a) For those retirees and annuitants who have never  
2079 received a cost-of-living adjustment under this subsection, the  
2080 amount of the monthly benefit payable for the 12-month period  
2081 commencing on the adjustment date shall be the amount of the  
2082 member's initial benefit plus an amount equal to a percentage of  
2083 the member's initial benefit. This percentage is derived by  
2084 dividing the number of months the member has received an initial  
2085 benefit by 12, and multiplying the result by the factor  
2086 calculated pursuant to paragraph (c).

2087 (b) For those retirees and annuitants who have received a  
2088 cost-of-living adjustment under this subsection, the adjusted



20112100e2

2089 monthly benefit shall be the amount of the monthly benefit being  
2090 received on June 30 immediately preceding the adjustment date  
2091 plus an amount determined by multiplying the benefit by the  
2092 factor calculated pursuant to paragraph (c).

2093 (c) The department shall calculate a cost-of-living factor  
2094 for each retiree and beneficiary retiring on or after July 1,  
2095 2011. This factor shall equal the product of 3 percent  
2096 multiplied by the quotient of the sum of the member's service  
2097 credit earned for service before July 1, 2011, divided by the  
2098 sum of the member's total service credit earned.

2099 Section 17. Subsection (1) of section 121.121, Florida  
2100 Statutes, is amended to read:

2101 121.121 Authorized leaves of absence.—

2102 (1) A member may purchase creditable service for up to 2  
2103 work years of authorized leaves of absence, including any leaves  
2104 of absence covered under the Family Medical Leave Act, if:

2105 (a) The member has completed a minimum of 6 years of  
2106 creditable service, excluding periods for which a leave of  
2107 absence was authorized;

2108 (b) The leave of absence is authorized in writing by the  
2109 employer of the member and approved by the administrator;

2110 (c) The member returns to active employment performing  
2111 service with a Florida Retirement System employer in a regularly  
2112 established position immediately upon termination of the leave  
2113 of absence and remains on the employer's payroll for 1 calendar  
2114 month, except that a member who retires on disability while on a  
2115 medical leave of absence may ~~shall~~ not be required to return to  
2116 employment. A member whose work year is less than 12 months and  
2117 whose leave of absence terminates between school years is

20112100e2

2118 eligible to receive credit for the leave of absence if ~~as long~~  
2119 ~~as~~ he or she returns to the employment ~~of his or her employer~~ at  
2120 the beginning of the next school year and remains on the  
2121 employer's payroll for 1 calendar month; and

2122 (d) The member makes the required contributions for service  
2123 credit during the leave of absence, which shall be 8 percent  
2124 until January 1, 1975, and 9 percent thereafter of his or her  
2125 rate of monthly compensation in effect immediately before ~~prior~~  
2126 ~~to~~ the commencement of such leave for each month of such period,  
2127 plus 4 percent interest until July 1, 1975, and 6.5 percent  
2128 interest thereafter on such contributions, compounded annually  
2129 each June 30 from the due date of the contribution to date of  
2130 payment. Effective July 1, 1980, any leave of absence purchased  
2131 pursuant to this section is ~~shall be~~ at the contribution rates  
2132 specified in s. 121.071 or s. 121.71 in effect at the time the  
2133 leave is granted for the class of membership from which the  
2134 leave of absence was granted; however, any member who purchased  
2135 leave-of-absence credit before ~~prior to~~ July 1, 1980, for a  
2136 leave of absence from a position in a class other than the  
2137 regular membership class, may pay the appropriate additional  
2138 contributions plus compound interest thereon and receive  
2139 creditable service for such leave of absence in the membership  
2140 class from which the member was granted the leave of absence.  
2141 Effective July 1, 2011, any leave of absence purchased pursuant  
2142 to this section shall be at the employee and employer  
2143 contribution rates specified in s. 121.71 in effect during the  
2144 leave for the class of membership from which the leave of  
2145 absence was granted.

2146 Section 18. Subsection (2) of section 121.122, Florida

20112100e2

2147 Statutes, is amended, and subsection (3) is added to that  
2148 section, to read:

2149 121.122 Renewed membership in system.-

2150 (2) A retiree of a state-administered retirement system who  
2151 is initially reemployed on or after July 1, 2010, through June  
2152 30, 2011, shall become a member of the Regular Class and be  
2153 enrolled in the Florida Retirement System Investment Plan on  
2154 July 1, 2011, and must resatisfy the vesting requirements and  
2155 other provisions provided in this chapter ~~is not eligible for~~  
2156 ~~renewed membership.~~ This subsection does not apply to retirees  
2157 from the Elected Officers' Class or the Senior Management  
2158 Service Class.

2159 (a) Creditable service, including credit towards the  
2160 retiree health insurance subsidy provided in s. 112.363, does  
2161 not accrue for a retiree's employment in a regularly established  
2162 position with a covered employer during the period from July 1,  
2163 2010, through June 30, 2011.

2164 (b) Employer contributions, interest, earnings, or any  
2165 other funds may not be paid into a renewed member's investment  
2166 plan account for any employment in a regularly established  
2167 position with a covered employer during the period from July 1,  
2168 2010, through June 30, 2011.

2169 (c) To be eligible to receive a retirement benefit under  
2170 the investment plan, the renewed member must meet the vesting  
2171 requirements of the plan as provided in s. 121.4501(6).

2172 (d) The member is not entitled to disability benefits as  
2173 provided in s. 121.091(4) or s. 121.591(2).

2174 (e) The member must meet the limitations on reemployment  
2175 after retirement as provided in s. 121.091(9), as applicable.

20112100e2

2176 (f) Upon the renewed membership or reemployment of a  
2177 retiree, the employer of such member and the retiree shall pay  
2178 the applicable employer and employee contributions as required  
2179 by ss. 112.363, 121.71, 121.74, and 121.76. Such contributions  
2180 are payable only for employment in a regularly established  
2181 position with a covered employer on or after July 1, 2011.

2182 (g) The member may not purchase any prior or past service  
2183 in the investment plan, including employment in a regularly  
2184 established position with a covered employer during the period  
2185 from July 1, 2010, through June 30, 2011.

2186 (h) A renewed member who is not receiving the maximum  
2187 health insurance subsidy provided in s. 112.363 is entitled to  
2188 earn additional credit toward the subsidy. Such credit may be  
2189 earned only for employment in a regularly established position  
2190 with a covered employer on or after July 1, 2011. Any additional  
2191 subsidy due because of additional credit may be received only at  
2192 the time of paying the second career retirement benefit. The  
2193 total health insurance subsidy received by a retiree receiving  
2194 benefits from initial and renewed membership may not exceed the  
2195 maximum allowed under s. 112.363.

2196 (3) Any retiree of a state-administered retirement system  
2197 who is initially reemployed on or after July 1, 2011, except for  
2198 retirees from the Elected Officers' Class or the Senior  
2199 Management Service Class, shall become a member of the Regular  
2200 Class and be enrolled in the Florida Retirement System  
2201 Investment Plan, and must resatisfy the vesting requirements and  
2202 other provisions of this chapter. Retirees from the Elected  
2203 Officers' Class or the Senior Management Service Class may not  
2204 be enrolled in a state-administered retirement system.

20112100e2

2205 (a) To be eligible to receive a retirement benefit under  
2206 the investment plan, the renewed member must meet the vesting  
2207 requirements of the investment plan as provided in s.  
2208 121.4501(6).

2209 (b) The member is not entitled to disability benefits as  
2210 provided in s. 121.091(4) or s. 121.591(2).

2211 (c) The member must meet the limitations on reemployment  
2212 after retirement provided in s. 121.091(9), as applicable.

2213 (d) Upon renewed membership or reemployment of a retiree,  
2214 the employer of such member and the retiree must pay the  
2215 applicable employer and employee contributions as required by  
2216 ss. 112.363, 121.71, 121.74, and 121.76.

2217 (e) The member may not purchase any prior or past service  
2218 in the investment plan.

2219 (f) A renewed member who is not receiving the maximum  
2220 health insurance subsidy provided in s. 112.363 is entitled to  
2221 earn additional credit toward the subsidy. Any additional  
2222 subsidy due because of additional credit may be received only at  
2223 the time of paying the second career retirement benefit. The  
2224 total health insurance subsidy received by a retiree receiving  
2225 benefits from initial and renewed membership may not exceed the  
2226 maximum allowed under s. 112.363.

2227 Section 19. Section 121.125, Florida Statutes, is amended  
2228 to read:

2229 121.125 Credit for workers' compensation payment periods.—A  
2230 member of the retirement system created by this chapter who has  
2231 been eligible or becomes eligible for ~~to receive~~ workers'  
2232 compensation payments for an injury or illness that occurred  
2233 ~~occurring~~ during ~~his or her~~ employment while a member of a ~~any~~

20112100e2

2234 state retirement system shall, upon return to active employment  
2235 with a covered employer for 1 calendar month or upon approval  
2236 for disability retirement in accordance with s. 121.091(4),  
2237 receive full retirement credit for the period before ~~prior to~~  
2238 such return to active employment or disability retirement for  
2239 which the workers' compensation payments were received. However,  
2240 a ~~no~~ member may not receive retirement credit for ~~any~~ such  
2241 period occurring after the earlier of the date of maximum  
2242 medical improvement as defined in s. 440.02 or the date  
2243 termination has occurred as defined in s. 121.021~~(39)~~. The  
2244 employer of record at the time of the worker's compensation  
2245 injury or illness shall make the required employee and employer  
2246 retirement contributions based on the member's rate of monthly  
2247 compensation immediately before ~~prior to his or her~~ receiving  
2248 workers' compensation payments for retirement credit received by  
2249 the member. The employer of record at the time of the workers'  
2250 compensation injury or illness shall be assessed by the division  
2251 a penalty of 1 percent of the contributions on all contributions  
2252 not paid on the first payroll report after the member becomes  
2253 eligible to receive credit. This delinquent assessment may not  
2254 be waived.

2255 Section 20. Paragraphs (g) and (i) of subsection (3) and  
2256 subsections (4) and (5) of section 121.35, Florida Statutes, are  
2257 amended to read:

2258 121.35 Optional retirement program for the State University  
2259 System.—

2260 (3) ELECTION OF OPTIONAL PROGRAM.—

2261 (g) An eligible employee who is a member of the Florida  
2262 Retirement System at the time of electing ~~election~~ to

20112100e2

2263 participate in the optional retirement program shall retain all  
2264 retirement service credit earned under the Florida Retirement  
2265 System, at the rate earned. ~~No~~ Additional service credit in the  
2266 ~~Florida Retirement~~ system may not ~~shall~~ be earned while the  
2267 employee participates in the optional program, and ~~nor shall~~ the  
2268 employee is not ~~be~~ eligible for disability retirement under the  
2269 ~~Florida Retirement~~ system. An eligible employee may transfer  
2270 from the Florida Retirement System to his or her accounts under  
2271 the State University System Optional Retirement Program a sum  
2272 representing the present value of the employee's accumulated  
2273 benefit obligation under the ~~defined benefit program of the~~  
2274 Florida Retirement System's pension plan ~~System~~ for any service  
2275 credit accrued from the employee's first eligible transfer date  
2276 to the optional retirement program through the actual date of  
2277 such transfer, if such service credit was earned ~~in the period~~  
2278 from July 1, 1984, through December 31, 1992. The present value  
2279 of the employee's accumulated benefit obligation shall be  
2280 calculated as described in s. 121.4501(3) ~~s. 121.4501(3)(c)2~~.  
2281 Upon ~~such~~ transfer, all ~~such~~ service credit ~~previously~~  
2282 under the pension plan ~~defined benefit program of the Florida~~  
2283 ~~Retirement System~~ during this period is ~~shall be~~ nullified for  
2284 purposes of entitlement to a future benefit under the pension  
2285 plan ~~defined benefit program of the Florida Retirement System~~.

2286 (i) Effective January 1, 2008, through December 31, 2008,  
2287 except for an employee who is a mandatory member ~~participant~~ of  
2288 the State University System Optional Retirement Program, an  
2289 employee who has elected to participate in the State University  
2290 System Optional Retirement Program shall have one opportunity,  
2291 at the employee's discretion, ~~to choose~~ to transfer from this

20112100e2

2292 program to the pension plan or the investment plan ~~defined~~  
2293 ~~benefit program of the Florida Retirement System or to the~~  
2294 ~~Public Employee Optional Retirement Program~~, subject to the  
2295 terms of the applicable contracts of the State University System  
2296 Optional Retirement Program.

2297 1. If the employee chooses to move to the investment plan  
2298 ~~Public Employee Optional Retirement Program~~, any contributions,  
2299 interest, and earnings creditable to the employee under the  
2300 State University System Optional Retirement Program must ~~shall~~  
2301 be retained by the employee in the State University System  
2302 Optional Retirement Program, and the applicable provisions of s.  
2303 121.4501(4) shall govern the election.

2304 2. If the employee chooses to move to the pension plan  
2305 ~~defined benefit program of the Florida Retirement System~~, the  
2306 employee shall receive service credit equal to his or her years  
2307 of service under the State University System Optional Retirement  
2308 Program.

2309 a. The cost for such credit must be in ~~shall be~~ an amount  
2310 representing the actuarial accrued liability for the affected  
2311 period of service. The cost must ~~shall~~ be calculated using the  
2312 discount rate and other relevant actuarial assumptions that were  
2313 used to value the pension ~~Florida Retirement System defined~~  
2314 ~~benefit~~ plan liabilities in the most recent actuarial valuation.  
2315 The calculation must ~~shall~~ include any service already  
2316 maintained under the pension ~~defined benefit~~ plan in addition to  
2317 the years under the State University System Optional Retirement  
2318 Program. The actuarial accrued liability of any service already  
2319 maintained under the pension ~~defined benefit~~ plan must ~~shall~~ be  
2320 applied as a credit to total cost resulting from the



20112100e2

2321 calculation. The division must ~~shall~~ ensure that the transfer  
2322 sum is prepared using a formula and methodology certified by an  
2323 enrolled actuary.

2324 b. The employee must transfer from his or her State  
2325 University System Optional Retirement Program account, and from  
2326 other employee moneys as necessary, a sum representing the  
2327 actuarial accrued liability immediately following the time of  
2328 such movement, determined assuming that attained service equals  
2329 the sum of service in the pension plan ~~defined benefit program~~  
2330 and service in the State University System Optional Retirement  
2331 Program.

2332 (4) CONTRIBUTIONS.—

2333 (a) 1. Through June 30, 2001, each employer shall contribute  
2334 on behalf of each member of ~~participant in~~ the optional  
2335 retirement program an amount equal to the normal cost portion of  
2336 the employer retirement contribution which would be required if  
2337 the employee participant were a regular member of the Florida  
2338 Retirement System's pension plan ~~System defined benefit program~~,  
2339 plus the portion of the contribution rate required in s.  
2340 112.363(8) that would otherwise be assigned to the Retiree  
2341 Health Insurance Subsidy Trust Fund.

2342 2. Effective July 1, 2001, through June 30, 2011, each  
2343 employer shall contribute on behalf of each member of  
2344 ~~participant in~~ the optional retirement program an amount equal  
2345 to 10.43 percent of the employee's ~~participant's~~ gross monthly  
2346 compensation.

2347 3. Effective July 1, 2011, each member of the optional  
2348 retirement program shall contribute an amount equal to the  
2349 employee contribution required in s. 121.71(3). The employer

20112100e2

2350 shall contribute on behalf of each such member an amount equal  
2351 to the difference between 10.43 percent of the employee's gross  
2352 monthly compensation and the amount equal to the employee's  
2353 required contribution based on the employee's gross monthly  
2354 compensation.

2355 ~~4. The department shall deduct an amount approved by the~~  
2356 ~~Legislature to provide for the administration of this program.~~  
2357 The payment of the contributions, including contributions by the  
2358 employee, to the optional program which is required by this  
2359 ~~paragraph for each participant~~ shall be made by the employer to  
2360 the department, which shall forward the contributions to the  
2361 designated company or companies contracting for payment of  
2362 benefits for members of the participant under the program.  
2363 However, such contributions paid on behalf of an employee  
2364 described in paragraph (3) (c) may ~~shall~~ not be forwarded to a  
2365 company and do ~~shall~~ not begin to accrue interest until the  
2366 employee has executed a contract and notified the department.  
2367 The department shall deduct an amount from the contributions to  
2368 provide for the administration of this program.

2369 (b) Each employer shall contribute on behalf of each member  
2370 of participant ~~in~~ the optional retirement program an amount  
2371 equal to the unfunded actuarial accrued liability portion of the  
2372 employer contribution which would be required for members of the  
2373 Florida Retirement System. This contribution shall be paid to  
2374 the department for transfer to the Florida Retirement System  
2375 Trust Fund.

2376 (c) An Optional Retirement Program Trust Fund shall be  
2377 established in the State Treasury and administered by the  
2378 department to make payments to the provider companies on behalf

20112100e2

2379 of ~~the~~ optional retirement program members ~~participants~~, and to  
2380 transfer the unfunded liability portion of the state optional  
2381 retirement program contributions to the Florida Retirement  
2382 System Trust Fund.

2383 (d) Contributions required for social security by each  
2384 employer and each employee ~~participant~~, in the amount required  
2385 for social security coverage as now or hereafter may be provided  
2386 by the federal Social Security Act, shall be maintained for each  
2387 member of ~~participant in~~ the optional retirement program and are  
2388 ~~shall be~~ in addition to the retirement contributions specified  
2389 in this subsection.

2390 (e) Each member of ~~participant in~~ the optional retirement  
2391 program who has executed a contract may contribute by way of  
2392 salary reduction or deduction a percentage amount of the  
2393 employee's ~~participant's~~ gross compensation not to exceed the  
2394 percentage amount contributed by the employer to the optional  
2395 program, but ~~in no case may~~ such contribution may not exceed  
2396 federal limitations. Payment of the employee's ~~participant's~~  
2397 contributions shall be made by the financial officer of the  
2398 employer to the division which shall forward the contributions  
2399 to the designated company or companies contracting for payment  
2400 of benefits for members ~~the participant~~ under the program. A  
2401 member ~~participant~~ may not make, through salary reduction, any  
2402 voluntary employee contributions to any other plan under s.  
2403 403(b) of the Internal Revenue Code, with the exception of a  
2404 custodial account under s. 403(b)(7) of the Internal Revenue  
2405 Code, until he or she has made an employee contribution to his  
2406 or her optional program equal to the employer contribution. An  
2407 employee ~~A participant~~ is responsible for monitoring his or her

20112100e2

2408 individual tax-deferred income to ensure he or she does not  
2409 exceed the maximum deferral amounts permitted under the Internal  
2410 Revenue Code.

2411 (f) The Optional Retirement Trust Fund may accept for  
2412 deposit into member ~~participant~~ contracts contributions in the  
2413 form of rollovers or direct trustee-to-trustee transfers by or  
2414 on behalf of members ~~participants~~ who are reasonably determined  
2415 by the department to be eligible for rollover or transfer to the  
2416 optional retirement program pursuant to the Internal Revenue  
2417 Code, if such contributions are made in accordance with rules  
2418 adopted by the department. Such contributions shall be accounted  
2419 for in accordance with any applicable requirements of the  
2420 Internal Revenue Code and department rules ~~of the department~~.

2421 (g) Effective July 1, 2008, for purposes of paragraph (a)  
2422 and notwithstanding s. 121.021(22)(b)1., the term "employee's  
2423 ~~participant's~~ gross monthly compensation" includes salary  
2424 payments made to eligible clinical faculty from a state  
2425 university using funds provided by a faculty practice plan  
2426 authorized by the Board of Governors of the State University  
2427 System if:

2428 1. There is no ~~not any~~ employer contribution from the state  
2429 university to any other retirement program with respect to such  
2430 salary payments; and

2431 2. The employer contribution on behalf of a member of the  
2432 ~~participant in~~ the optional retirement program with respect to  
2433 such salary payments is made using funds provided by the faculty  
2434 practice plan.

2435 (5) BENEFITS.—

2436 (a) Benefits are payable under the optional retirement

20112100e2

2437 program only to vested members participating ~~participants~~ in the  
2438 program, or their beneficiaries as designated by the member  
2439 ~~participant~~ in the contract with a provider company, and such  
2440 benefits shall be paid only by the designated company in  
2441 accordance with s. 403(b) of the Internal Revenue Code and the  
2442 terms of the annuity contract or contracts applicable to the  
2443 member participant. Benefits accrue in individual accounts that  
2444 are member-directed ~~participant-directed~~, portable, and funded  
2445 by employer contributions and the earnings thereon. The member  
2446 ~~participant~~ must be terminated for 3 calendar months from all  
2447 employment relationships with all Florida Retirement System  
2448 employers, as provided in s. 121.021(39), to begin receiving the  
2449 ~~employer-funded~~ benefit. Benefits funded by employer  
2450 contributions are payable in accordance with the following terms  
2451 and conditions:

2452 1. Benefits shall be paid only to a participating member  
2453 ~~participant~~, to his or her beneficiaries, or to his or her  
2454 estate, as designated by the member participant.

2455 2. Benefits shall be paid by the provider company or  
2456 companies in accordance with the law, the provisions of the  
2457 contract, and any applicable department rule or policy.

2458 3. In the event of a member's participant's death, moneys  
2459 accumulated by, or on behalf of, the member participant, less  
2460 withholding taxes remitted to the Internal Revenue Service, if  
2461 any, shall be distributed to the member's participant's  
2462 designated beneficiary or beneficiaries, or to the member's  
2463 ~~participant's~~ estate, as if the member participant retired on  
2464 the date of death, as provided in paragraph (d) ~~(e)~~. No other  
2465 death benefits are available to survivors of members

20112100e2

2466 ~~participants~~ under the optional retirement program except for  
2467 such benefits, or coverage for such benefits, as are separately  
2468 afforded by the employer, at the employer's discretion.

2469 (b) Benefits are not payable for employee hardships,  
2470 unforeseeable emergencies, loans, medical expenses, educational  
2471 expenses, purchase of a principal residence, payments necessary  
2472 to prevent eviction or foreclosure on an employee's principal  
2473 residence, or any other reason before termination from all  
2474 employment relationships with participating employers, as  
2475 provided in s. 121.021(39).

2476 (c) ~~(b)~~ Upon receipt by the provider company of a properly  
2477 executed application for distribution of benefits, the total  
2478 accumulated benefit are ~~shall be~~ payable to the participating  
2479 member participant, as:

2480 1. A lump-sum distribution to the member participant;

2481 2. A lump-sum direct rollover distribution whereby all  
2482 accrued benefits, plus interest and investment earnings, are  
2483 paid from the participant's account directly to an eligible  
2484 retirement plan, as defined in s. 402(c)(8)(B) of the Internal  
2485 Revenue Code, on behalf of the member participant;

2486 3. Periodic distributions;

2487 4. A partial lump-sum payment whereby a portion of the  
2488 accrued benefit is paid to the member participant and the  
2489 remaining amount is transferred to an eligible retirement plan,  
2490 as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on  
2491 behalf of the member participant; or

2492 5. Such other distribution options as are provided ~~for~~ in  
2493 the participant's optional retirement program contract.

2494 (d) ~~(e)~~ Survivor benefits are ~~shall be~~ payable as:

20112100e2

2495 1. A lump-sum distribution payable to the beneficiaries or  
2496 to the deceased member's ~~participant's~~ estate;

2497 2. An eligible rollover distribution on behalf of the  
2498 surviving spouse of a deceased member ~~participant~~, whereby all  
2499 accrued benefits, plus interest and investment earnings, are  
2500 paid from the deceased member's ~~participant's~~ account directly  
2501 to an eligible retirement plan, as described in s. 402(c)(8)(B)  
2502 of the Internal Revenue Code, on behalf of the surviving spouse;

2503 3. Such other distribution options as are provided ~~for~~ in  
2504 the member's ~~participant's~~ optional retirement program contract;  
2505 or

2506 4. A partial lump-sum payment whereby a portion of the  
2507 accrued benefit is paid to the deceased member's ~~participant's~~  
2508 surviving spouse or other designated beneficiaries, less  
2509 withholding taxes remitted to the Internal Revenue Service, if  
2510 any, and the remaining amount is transferred directly to an  
2511 eligible retirement plan, as described in s. 402(c)(8)(B) of the  
2512 Internal Revenue Code, on behalf of the surviving spouse. The  
2513 proportions must be specified by the member ~~participant~~ or the  
2514 surviving beneficiary.

2515  
2516 This paragraph does not abrogate other applicable provisions of  
2517 state or federal law providing payment of death benefits.

2518 ~~(e)-(d)~~ The benefits payable to any person under the  
2519 optional retirement program, and any contribution accumulated  
2520 under such program, are ~~shall~~ not be subject to assignment,  
2521 execution, or attachment or to any legal process ~~whatsoever~~.

2522 ~~(f)-(e)~~ A participating member ~~participant~~ who chooses to  
2523 receive his or her benefits must be terminated for 3 calendar

20112100e2

2524 months to be eligible to receive benefits funded by employer  
2525 contributions. The member ~~upon termination as defined in s.~~  
2526 ~~121.021~~ must notify the provider company of the date he or she  
2527 wishes benefits funded by required employer and employee  
2528 contributions to begin and must be terminated as defined in s.  
2529 121.021 after the initial benefit payment or distribution.  
2530 Benefits may be deferred until the member ~~participant~~ chooses to  
2531 make such application.

2532 (g) ~~(f)~~ Benefits funded by the participating member's  
2533 voluntary ~~participant's~~ personal contributions may be paid out  
2534 at any time and in any form within the limits provided in the  
2535 contract between the member ~~participant~~ and the ~~his or her~~  
2536 provider company. The member ~~participant~~ shall notify the  
2537 provider company regarding the date and provisions under which  
2538 he or she wants to receive the employee-funded portion of the  
2539 plan.

2540 (h) ~~(g)~~ For purposes of this section, "retiree" means a  
2541 former participating member ~~participant~~ of the optional  
2542 retirement program who has terminated employment and has taken a  
2543 distribution as provided in this subsection, except for a  
2544 mandatory distribution of a de minimis account authorized by the  
2545 department.

2546 Section 21. Section 121.355, Florida Statutes, is amended  
2547 to read:

2548 121.355 Community College Optional Retirement Program and  
2549 State University System Optional Retirement Program member  
2550 transfer.—Effective January 1, 2009, through December 31, 2009,  
2551 an employee who is a former member of ~~participant in~~ the  
2552 Community College Optional Retirement Program or the State



20112100e2

2553 University System Optional Retirement Program and present  
2554 mandatory member of ~~participant in~~ the Florida Retirement  
2555 System's pension ~~System-defined benefit~~ plan may receive service  
2556 credit equal to his or her years of service under the Community  
2557 College Optional Retirement Program or the State University  
2558 System Optional Retirement Program under the following  
2559 conditions:

2560 (1) The cost for such credit must represent ~~shall be an~~  
2561 ~~amount representing~~ the actuarial accrued liability for the  
2562 affected period of service. The cost shall be calculated using  
2563 the discount rate and other relevant actuarial assumptions that  
2564 were used to value the Florida Retirement System's pension  
2565 ~~System-defined benefit~~ plan liabilities in the most recent  
2566 actuarial valuation. The calculation must ~~shall~~ include any  
2567 service already maintained under the pension ~~defined benefit~~  
2568 plan in addition to the years under the Community College  
2569 Optional Retirement Program or the State University System  
2570 Optional Retirement Program. The actuarial accrued liability of  
2571 any service already maintained under the pension ~~defined benefit~~  
2572 plan shall be applied as a credit to total cost resulting from  
2573 the calculation. The division shall ensure that the transfer sum  
2574 is prepared using a formula and methodology certified by an  
2575 enrolled actuary.

2576 (2) The employee must transfer from his or her Community  
2577 College Optional Retirement Program account or State University  
2578 System Optional Retirement Program account, subject to the terms  
2579 of the applicable optional retirement program contract, and from  
2580 other employee moneys as necessary, a sum representing the  
2581 actuarial accrued liability immediately following the time of

20112100e2

2582 such movement, determined assuming that attained service equals  
2583 the sum of service in the pension plan ~~defined benefit program~~  
2584 and service in the Community College Optional Retirement Program  
2585 or State University System Optional Retirement Program.

2586 (3) The employee may not receive service credit for a  
2587 period of mandatory participation in the State University  
2588 Optional Retirement Program or for a period for which a  
2589 distribution was received from the Community College Optional  
2590 Retirement Program or State University System Optional  
2591 Retirement Program.

2592 Section 22. Section 121.4501, Florida Statutes, is amended  
2593 to read:

2594 121.4501 Florida Public Employee Optional Retirement System  
2595 Investment Plan Program.—

2596 (1) The Trustees of the State Board of Administration shall  
2597 establish a ~~an optional~~ defined contribution ~~retirement~~ program  
2598 called the Florida Retirement System Investment Plan for members  
2599 of the Florida Retirement System under which retirement benefits  
2600 are will be provided for eligible employees initially employed  
2601 before July 1, 2011, who elect to enroll ~~participate~~ in the  
2602 plan. Enrollment is compulsory for members of the Elected  
2603 Officers' Class and the Senior Management Class, who are  
2604 employed on or after July 1, 2011, except for those who are  
2605 eligible to and elect to enroll in an optional retirement  
2606 program established under s. 121.055(6), s. 121.35, or s.  
2607 1012.875, or those who qualify for special risk membership  
2608 pursuant to s. 121.0515 ~~program~~. The retirement ~~to be~~  
2609 ~~provided for or on behalf of participants in such optional~~  
2610 ~~retirement program~~ shall be provided through employee-directed

20112100e2

2611 investments, in accordance with s. 401(a) of the Internal  
2612 Revenue Code and ~~its~~ related regulations. ~~The~~ Employers and  
2613 employees shall make contributions ~~contribute~~, as provided in  
2614 this section and ~~7~~ ss. 121.571~~7~~ and 121.71~~7~~, to the Florida Public  
2615 ~~Employee Optional Retirement System Investment Plan Program~~  
2616 Trust Fund toward the funding of ~~such optional~~ benefits.

2617 (2) DEFINITIONS.—As used in this part, the term:

2618 (a) "Approved provider" or "provider" means a private  
2619 sector company that is selected and approved by the state board  
2620 to offer one or more investment products or services to the  
2621 investment plan ~~optional retirement program~~. The term includes a  
2622 bundled provider that offers plan members ~~participants~~ a range  
2623 of individually allocated or unallocated investment products and  
2624 may offer a range of administrative and customer services, which  
2625 may include accounting and administration of individual member  
2626 ~~participant~~ benefits and contributions; individual member  
2627 ~~participant~~ recordkeeping; asset purchase, control, and  
2628 safekeeping; direct execution of the member's ~~participant's~~  
2629 instructions as to asset and contribution allocation;  
2630 calculation of daily net asset values; direct access to member  
2631 ~~participant~~ account information; periodic reporting to members  
2632 ~~participants~~, at least quarterly, on account balances and  
2633 transactions; guidance, advice, and allocation services directly  
2634 relating to the provider's own investment options or products,  
2635 but only if the bundled provider complies with the standard of  
2636 care of s. 404(a)(1)(A-B) of the Employee Retirement Income  
2637 Security Act of 1974 (ERISA) and if providing such guidance,  
2638 advice, or allocation services does not constitute a prohibited  
2639 transaction under s. 4975(c)(1) of the Internal Revenue Code or

20112100e2

2640 s. 406 of ERISA, notwithstanding that such prohibited  
2641 transaction provisions do not apply to the ~~optional~~ retirement  
2642 program; a broad array of distribution options; asset  
2643 allocation; and retirement counseling and education. Private  
2644 sector companies include investment management companies,  
2645 insurance companies, depositories, and mutual fund companies.

2646 (b) "Average monthly compensation" means one-twelfth of  
2647 average final compensation as defined in s. 121.021.

2648 (c) "Covered employment" means employment in a regularly  
2649 established position as defined in s. 121.021.

2650 ~~(d) "Defined benefit program" means the defined benefit  
2651 program of the Florida Retirement System administered under part  
2652 I of this chapter.~~

2653 ~~(e) "Division" means the Division of Retirement within the  
2654 department.~~

2655 (d) ~~(f)~~ "Electronic means" means by telephone, if the  
2656 ~~required~~ information is received on a recorded line, or through  
2657 Internet access, if the ~~required~~ information is captured online.

2658 ~~(g) "Eligible employee" means an officer or employee, as  
2659 defined in s. 121.021, who:~~

2660 ~~1. Is a member of, or is eligible for membership in, the  
2661 Florida Retirement System, including any renewed member of the  
2662 Florida Retirement System initially enrolled before July 1,  
2663 2010; or~~

2664 ~~2. Participates in, or is eligible to participate in, the  
2665 Senior Management Service Optional Annuity Program as  
2666 established under s. 121.055(6), the State Community College  
2667 System Optional Retirement Program as established under s.  
2668 121.051(2) (c), or the State University System Optional~~

20112100e2

2669 ~~Retirement Program established under s. 121.35.~~

2670

2671 ~~The term does not include any member participating in the~~  
2672 ~~Deferred Retirement Option Program established under s.~~  
2673 ~~121.091(13), a retiree of a state-administered retirement system~~  
2674 ~~initially reemployed on or after July 1, 2010, or a mandatory~~  
2675 ~~participant of the State University System Optional Retirement~~  
2676 ~~Program established under s. 121.35.~~

2677 (e)~~(h)~~ "Employer" means an employer, as defined in s.  
2678 121.021, of an eligible employee.

2679 (f) "Florida Retirement System Investment Plan" or  
2680 "investment plan" means the defined contribution program of the  
2681 Florida Retirement System established under this part.

2682 (g) "Florida Retirement System Pension Plan" or pension  
2683 plan" means the defined benefit program of the Florida  
2684 Retirement System administered under part I of this chapter.

2685 ~~(i) "Optional retirement program" or "optional program"~~  
2686 ~~means the Public Employee Optional Retirement Program~~  
2687 ~~established under this part.~~

2688 (h)~~(j)~~ "Member" or "employee" "participant" means an  
2689 eligible employee who is enrolled ~~enrolls~~ in the investment plan  
2690 ~~optional program~~ as provided in subsection (4), ~~or~~ a terminated  
2691 Deferred Retirement Option Program member ~~participant~~ as  
2692 described in subsection (21), or a beneficiary or alternate  
2693 payee of a member or employee.

2694 (i) "Member contributions" or "employee contributions" mean  
2695 the sum of all amounts deducted from the salary of a member by  
2696 his or her employer in accordance with s. 121.71(2) and credited  
2697 to his or her individual account in the investment plan, plus

20112100e2

2698 any earnings on such amounts and any contributions specified in  
2699 paragraph (5) (e).

2700 (j)~~(k)~~ "Retiree" means a former member participant of the  
2701 investment plan ~~optional retirement program~~ who has terminated  
2702 employment and ~~has~~ taken a distribution of vested employer or  
2703 employee contributions as provided in s. 121.591, except for a  
2704 mandatory distribution of a de minimis account authorized by the  
2705 state board.

2706 (k)~~(l)~~ "Vested" or "vesting" means the guarantee that a  
2707 member participant is eligible to receive a retirement benefit  
2708 upon completion of the required years of service under the  
2709 investment plan ~~optional retirement program~~.

2710 (3) ELIGIBILITY; RETIREMENT SERVICE CREDIT; TRANSFER OF  
2711 BENEFITS.—

2712 ~~(a) Participation in the Public Employee Optional~~  
2713 ~~Retirement Program is limited to eligible employees.~~  
2714 ~~Participation in the optional retirement program is in lieu of~~  
2715 ~~participation in the defined benefit program of the Florida~~  
2716 ~~Retirement System.~~

2717 (a)~~(b)~~ An eligible employee who is employed in a regularly  
2718 established position by a state employer on June 1, 2002; by a  
2719 district school board employer on September 1, 2002; or by a  
2720 local employer on December 1, 2002, and who is a member of the  
2721 pension plan ~~defined benefit retirement program of the Florida~~  
2722 ~~Retirement System~~ at the time of his or her election to enroll  
2723 participate in the investment plan ~~Public Employee Optional~~  
2724 ~~Retirement Program~~ shall retain all retirement service credit  
2725 earned under the pension plan ~~defined benefit retirement program~~  
2726 ~~of the Florida Retirement System~~ as credited under the Florida

20112100e2

2727 Retirement System and is ~~shall be~~ entitled to a deferred benefit  
2728 upon termination, ~~if eligible under the system.~~ However,  
2729 election to enroll ~~participate~~ in the investment plan ~~Public~~  
2730 ~~Employee Optional Retirement Program~~ terminates the active  
2731 membership of the employee in the pension plan ~~defined benefit~~  
2732 ~~program of the Florida Retirement System,~~ and the service of a  
2733 member of participant ~~in the investment plan is~~ ~~Public Employee~~  
2734 ~~Optional Retirement Program~~ shall not be creditable under the  
2735 pension plan ~~defined benefit retirement program of the Florida~~  
2736 ~~Retirement System~~ for purposes of benefit accrual but is  
2737 creditable ~~shall be credited~~ for purposes of vesting.

2738 (b)(e)1. Notwithstanding paragraph (a), ~~an (b)~~, each  
2739 eligible employee who elects to enroll ~~participate~~ in the  
2740 investment plan ~~Public Employee Optional Retirement Program~~ and  
2741 establishes one or more individual member ~~participant~~ accounts  
2742 ~~under the optional program~~ may elect to transfer to the  
2743 investment plan ~~optional program~~ a sum representing the present  
2744 value of the employee's accumulated benefit obligation under the  
2745 pension plan ~~defined benefit retirement program of the Florida~~  
2746 ~~Retirement System.~~ Upon ~~such~~ transfer, all service credit  
2747 ~~previously~~ earned under the pension plan ~~is defined benefit~~  
2748 ~~program of the Florida Retirement System~~ shall be nullified for  
2749 purposes of entitlement to a future benefit under the pension  
2750 plan ~~defined benefit program of the Florida Retirement System.~~ A  
2751 member may not transfer ~~participant is precluded from~~  
2752 ~~transferring~~ the accumulated benefit obligation balance from the  
2753 pension plan ~~after the time defined benefit program upon the~~  
2754 ~~expiration of the period~~ for enrolling ~~afforded to enroll~~ in the  
2755 investment plan ~~has expired~~ ~~optional program.~~

20112100e2

2756       ~~1.2.~~ For purposes of this subsection, the present value of  
2757 the member's accumulated benefit obligation is based upon the  
2758 member's estimated creditable service and estimated average  
2759 final compensation under the pension plan ~~defined benefit~~  
2760 program, subject to recomputation under subparagraph 2. ~~3.~~ For  
2761 state employees ~~enrolling under subparagraph (4)(a)1.~~, initial  
2762 estimates shall ~~will~~ be based upon creditable service and  
2763 average final compensation as of midnight on June 30, 2002; for  
2764 district school board employees ~~enrolling under subparagraph~~  
2765 ~~(4)(b)1.~~, initial estimates shall ~~will~~ be based upon creditable  
2766 service and average final compensation as of midnight on  
2767 September 30, 2002; and for local government employees ~~enrolling~~  
2768 ~~under subparagraph (4)(c)1.~~, initial estimates shall ~~will~~ be  
2769 based upon creditable service and average final compensation as  
2770 of midnight on December 31, 2002. The dates ~~respectively~~  
2771 specified are above ~~shall be construed as~~ the "estimate date"  
2772 for these employees. The actuarial present value of the  
2773 employee's accumulated benefit obligation shall be based on the  
2774 following:

2775       a. The discount rate and other relevant actuarial  
2776 assumptions used to value the Florida Retirement System Trust  
2777 Fund at the time the amount to be transferred is determined,  
2778 consistent with the factors provided in sub-subparagraphs b. and  
2779 c.

2780       b. A benefit commencement age, based on the member's  
2781 estimated creditable service as of the estimate date. The  
2782 benefit commencement age is ~~shall be~~ the younger of the  
2783 following, but may ~~shall~~ not be younger than the member's age as  
2784 of the estimate date:



20112100e2

2785 (I) Age 62; or

2786 (II) The age the member would attain if the member  
2787 completed 30 years of service with an employer, assuming the  
2788 member worked continuously from the estimate date, and  
2789 disregarding any vesting requirement that would otherwise apply  
2790 under the pension plan ~~defined benefit program of the Florida~~  
2791 ~~Retirement System.~~

2792 c. For members of the Special Risk Class, and for members  
2793 of the Special Risk Administrative Support Class entitled to  
2794 retain the special risk normal retirement date, the benefit  
2795 commencement age is ~~shall be~~ the younger of the following, but  
2796 may shall not be younger than the member's age as of the  
2797 estimate date:

2798 (I) Age 55 or, for members enrolled on or after July 1,  
2799 2011, age 62; or

2800 (II) The age the member would attain if the member  
2801 completed 25 years of service with an employer, or, for members  
2802 enrolled on or after July 1, 2011, 30 years of service with an  
2803 employer, assuming the member worked continuously from the  
2804 estimate date, and disregarding any vesting requirement that  
2805 would otherwise apply under the pension plan ~~defined benefit~~  
2806 ~~program of the Florida Retirement System.~~

2807 d. The calculation must ~~shall~~ disregard vesting  
2808 requirements and early retirement reduction factors that would  
2809 otherwise apply under the pension plan ~~defined benefit~~  
2810 ~~retirement program.~~

2811 2.3- For each member participant who elects to transfer  
2812 moneys from the pension plan ~~defined benefit program~~ to his or  
2813 her account in the investment plan ~~optional program,~~ the

20112100e2

2814 division shall recompute the amount transferred under  
2815 subparagraph 1. ~~within 2. not later than~~ 60 days after the  
2816 actual transfer of funds based upon the member's ~~participant's~~  
2817 actual creditable service and actual final average compensation  
2818 as of the initial date of participation in the investment plan  
2819 ~~optional program~~. If the recomputed amount differs from the  
2820 amount transferred ~~under subparagraph 2.~~ by \$10 or more, the  
2821 division shall:

2822 a. Transfer, or cause to be transferred, from the Florida  
2823 Retirement System Trust Fund to the member's ~~participant's~~  
2824 account ~~in the optional program~~ the excess, if any, of the  
2825 recomputed amount over the previously transferred amount  
2826 together with interest from the initial date of transfer to the  
2827 date of transfer under this subparagraph, based upon the  
2828 effective annual interest equal to the assumed return on the  
2829 actuarial investment which was used in the most recent actuarial  
2830 valuation of the system, compounded annually.

2831 b. Transfer, or cause to be transferred, from the member's  
2832 ~~participant's~~ account to the Florida Retirement System Trust  
2833 Fund the excess, if any, of the previously transferred amount  
2834 over the recomputed amount, together with interest from the  
2835 initial date of transfer to the date of transfer under this  
2836 subparagraph, based upon 6 percent effective annual interest,  
2837 compounded annually, pro rata based on the member's  
2838 ~~participant's~~ allocation plan.

2839 3. If contribution adjustments are made as a result of  
2840 employer errors or corrections, including plan corrections,  
2841 following recomputation of the amount transferred under  
2842 subparagraph 1., the member is entitled to the additional

20112100e2

2843 contributions or is responsible for returning any excess  
2844 contributions resulting from the correction. However, the return  
2845 of such erroneous excess pretax contribution by the plan must be  
2846 made within the period allowed by the Internal Revenue Service.  
2847 The present value of the member's accumulated benefit obligation  
2848 may not be recalculated.

2849 4. As directed by the member participant, the state board  
2850 shall transfer or cause to be transferred the appropriate  
2851 amounts to the designated accounts within. ~~The board shall~~  
2852 ~~establish transfer procedures by rule, but the actual transfer~~  
2853 ~~shall not be later than~~ 30 days after the effective date of the  
2854 member's participation in the investment plan ~~optional program~~  
2855 unless the major financial markets for securities available for  
2856 a transfer are seriously disrupted by an unforeseen event that  
2857 ~~which also~~ causes the suspension of trading on any national  
2858 securities exchange in the country where the securities are ~~were~~  
2859 issued. In that event, the ~~such~~ 30-day period ~~of time~~ may be  
2860 extended by a resolution of the state board ~~trustees~~. Transfers  
2861 are not commissionable or subject to other fees and may be in  
2862 the form of securities or cash, as determined by the state  
2863 board. Such securities are ~~shall be~~ valued as of the date of  
2864 receipt in the member's ~~participant's~~ account.

2865 5. If the state board or the division receives notification  
2866 from the United States Internal Revenue Service that this  
2867 paragraph or any portion of this paragraph will cause the  
2868 retirement system, or a portion thereof, to be disqualified for  
2869 tax purposes under the Internal Revenue Code, ~~then~~ the portion  
2870 that will cause the disqualification does not apply. Upon such  
2871 notice, the state board and the division shall notify the

20112100e2

2872 presiding officers of the Legislature.

2873 (4) PARTICIPATION; ENROLLMENT.—

2874 (a)~~1~~. Between June 1, 2001, and February 28, 2003, eligible  
2875 employees were provided a 90-day period to elect membership in  
2876 the investment plan. An employee who failed to elect the  
2877 investment plan during the election period remained in the  
2878 pension plan. An eligible employee who was employed in a  
2879 regularly established position during the election period was  
2880 also provided one opportunity to change plans, as provided under  
2881 paragraph (e). With respect to an eligible employee who did not  
2882 participate in the initial election period and an eligible  
2883 employee who is initially employed in a regularly established  
2884 position after the close of the initial election period but  
2885 before June 30, 2011, the ~~on June 1, 2002, by a state employer:~~

2886 a. ~~Any such employee may elect to participate in the Public~~  
2887 ~~Employee Optional Retirement Program in lieu of retaining his or~~  
2888 ~~her membership in the defined benefit program of the Florida~~  
2889 ~~Retirement System. The election must be made in writing or by~~  
2890 ~~electronic means and must be filed with the third-party~~  
2891 ~~administrator by August 31, 2002, or, in the case of an active~~  
2892 ~~employee who is on a leave of absence on April 1, 2002, by the~~  
2893 ~~last business day of the 5th month following the month the leave~~  
2894 ~~of absence concludes. This election is irrevocable, except as~~  
2895 ~~provided in paragraph (c). Upon making such election, the~~  
2896 ~~employee shall be enrolled as a participant of the Public~~  
2897 ~~Employee Optional Retirement Program, the employee's membership~~  
2898 ~~in the Florida Retirement System shall be governed by the~~  
2899 ~~provisions of this part, and the employee's membership in the~~  
2900 ~~defined benefit program of the Florida Retirement System shall~~

20112100e2

2901 ~~terminate. The employee's enrollment in the Public Employee~~  
2902 ~~Optional Retirement Program shall be effective the first day of~~  
2903 ~~the month for which a full month's employer contribution is made~~  
2904 ~~to the optional program.~~

2905 ~~b. Any such employee who fails to elect to participate in~~  
2906 ~~the Public Employee Optional Retirement Program within the~~  
2907 ~~prescribed time period is deemed to have elected to retain~~  
2908 ~~membership in the defined benefit program of the Florida~~  
2909 ~~Retirement System, and the employee's option to elect to~~  
2910 ~~participate in the optional program is forfeited.~~

2911 ~~2. With respect to employees who become eligible to~~  
2912 ~~participate in the Public Employee Optional Retirement Program~~  
2913 ~~by reason of employment in a regularly established position with~~  
2914 ~~a state employer commencing after April 1, 2002:~~

2915 ~~a. Any such employee shall, by default, be enrolled in the~~  
2916 ~~pension plan defined benefit retirement program of the Florida~~  
2917 ~~Retirement System at the commencement of employment, and may, by~~  
2918 ~~the last business day of the 5th month following the employee's~~  
2919 ~~month of hire, elect to enroll participate in the investment~~  
2920 ~~plan Public Employee Optional Retirement Program. The employee's~~  
2921 ~~election must be made in writing or by electronic means and must~~  
2922 ~~be filed with the third-party administrator. The election to~~  
2923 ~~enroll participate in the investment plan optional program is~~  
2924 ~~irrevocable, except as provided in paragraph (e).~~

2925 ~~1.b.~~ If the employee files such election within the  
2926 prescribed time period, enrollment in the investment plan is  
2927 ~~optional program~~ shall be effective on the first day of  
2928 employment. The employer and employee ~~retirement~~ contributions  
2929 paid through the month of the employee plan change shall be

20112100e2

2930 transferred to the investment plan ~~optional program~~, and,  
2931 effective the first day of the next month, the employer and  
2932 employee must ~~shall~~ pay the applicable contributions based on  
2933 the employee membership class in the plan ~~optional program~~.

2934 2.e. ~~An Any such~~ employee who fails to elect to enroll  
2935 ~~participate~~ in the investment plan ~~Public Employee Optional~~  
2936 ~~Retirement Program~~ within the prescribed time period is deemed  
2937 to have elected to retain membership in the pension plan ~~defined~~  
2938 ~~benefit program of the Florida Retirement System~~, and the  
2939 employee's option to elect to enroll ~~participate~~ in the  
2940 investment plan ~~optional program~~ is forfeited.

2941 3. With respect to employees who become eligible to enroll  
2942 ~~participate~~ in the investment plan ~~Public Employee Optional~~  
2943 ~~Retirement Program~~ pursuant to s. 121.051(2)(c)3. or s.  
2944 121.35(3)(i), the any such employee may elect to enroll  
2945 ~~participate~~ in the investment plan ~~Public Employee Optional~~  
2946 ~~Retirement Program~~ in lieu of retaining his or her participation  
2947 in the State Community College System Optional Retirement  
2948 Program or the State University System Optional Retirement  
2949 Program. The election must be made in writing or by electronic  
2950 means and must be filed with the third-party administrator. This  
2951 election is irrevocable, except as provided in paragraph (e).  
2952 Upon making such election, the employee shall be enrolled in as  
2953 ~~a participant of the~~ investment plan ~~Public Employee Optional~~  
2954 ~~Retirement Program~~, the employee's membership in the Florida  
2955 Retirement System shall be governed by the provisions of this  
2956 part, and the employee's participation in the State Community  
2957 College System Optional Retirement Program or the State  
2958 University System Optional Retirement Program shall terminate.

20112100e2

2959 The employee's enrollment in the investment plan is Public  
2960 ~~Employee Optional Retirement Program~~ shall be effective on the  
2961 first day of the month for which a full month's of employee  
2962 contributions are employer contribution is made to the  
2963 investment plan optional program.

2964 4. ~~For purposes of this paragraph, "state employer" means~~  
2965 ~~any agency, board, branch, commission, community college,~~  
2966 ~~department, institution, institution of higher education, or~~  
2967 ~~water management district of the state, which participates in~~  
2968 ~~the Florida Retirement System for the benefit of certain~~  
2969 ~~employees.~~

2970 (b)1. ~~With respect to an eligible employee who is employed~~  
2971 ~~in a regularly established position on September 1, 2002, by a~~  
2972 ~~district school board employer:~~

2973 a. ~~Any such employee may elect to participate in the Public~~  
2974 ~~Employee Optional Retirement Program in lieu of retaining his or~~  
2975 ~~her membership in the defined benefit program of the Florida~~  
2976 ~~Retirement System. The election must be made in writing or by~~  
2977 ~~electronic means and must be filed with the third-party~~  
2978 ~~administrator by November 30, or, in the case of an active~~  
2979 ~~employee who is on a leave of absence on July 1, 2002, by the~~  
2980 ~~last business day of the 5th month following the month the leave~~  
2981 ~~of absence concludes. This election is irrevocable, except as~~  
2982 ~~provided in paragraph (c). Upon making such election, the~~  
2983 ~~employee shall be enrolled as a participant of the Public~~  
2984 ~~Employee Optional Retirement Program, the employee's membership~~  
2985 ~~in the Florida Retirement System shall be governed by the~~  
2986 ~~provisions of this part, and the employee's membership in the~~  
2987 ~~defined benefit program of the Florida Retirement System shall~~

20112100e2

2988 ~~terminate. The employee's enrollment in the Public Employee~~  
2989 ~~Optional Retirement Program shall be effective the first day of~~  
2990 ~~the month for which a full month's employer contribution is made~~  
2991 ~~to the optional program.~~

2992 ~~b. Any such employee who fails to elect to participate in~~  
2993 ~~the Public Employee Optional Retirement Program within the~~  
2994 ~~prescribed time period is deemed to have elected to retain~~  
2995 ~~membership in the defined benefit program of the Florida~~  
2996 ~~Retirement System, and the employee's option to elect to~~  
2997 ~~participate in the optional program is forfeited.~~

2998 ~~2. With respect to employees who become eligible to~~  
2999 ~~participate in the Public Employee Optional Retirement Program~~  
3000 ~~by reason of employment in a regularly established position with~~  
3001 ~~a district school board employer commencing after July 1, 2002:~~

3002 ~~a. Any such employee shall, by default, be enrolled in the~~  
3003 ~~defined benefit retirement program of the Florida Retirement~~  
3004 ~~System at the commencement of employment, and may, by the last~~  
3005 ~~business day of the 5th month following the employee's month of~~  
3006 ~~hire, elect to participate in the Public Employee Optional~~  
3007 ~~Retirement Program. The employee's election must be made in~~  
3008 ~~writing or by electronic means and must be filed with the third-~~  
3009 ~~party administrator. The election to participate in the optional~~  
3010 ~~program is irrevocable, except as provided in paragraph (c).~~

3011 ~~b. If the employee files such election within the~~  
3012 ~~prescribed time period, enrollment in the optional program shall~~  
3013 ~~be effective on the first day of employment. The employer~~  
3014 ~~retirement contributions paid through the month of the employee~~  
3015 ~~plan change shall be transferred to the optional program, and,~~  
3016 ~~effective the first day of the next month, the employer shall~~



20112100e2

3017 ~~pay the applicable contributions based on the employee~~  
3018 ~~membership class in the optional program.~~

3019 ~~e. Any such employee who fails to elect to participate in~~  
3020 ~~the Public Employee Optional Retirement Program within the~~  
3021 ~~prescribed time period is deemed to have elected to retain~~  
3022 ~~membership in the defined benefit program of the Florida~~  
3023 ~~Retirement System, and the employee's option to elect to~~  
3024 ~~participate in the optional program is forfeited.~~

3025 ~~3. For purposes of this paragraph, "district school board~~  
3026 ~~employer" means any district school board that participates in~~  
3027 ~~the Florida Retirement System for the benefit of certain~~  
3028 ~~employees, or a charter school or charter technical career~~  
3029 ~~center that participates in the Florida Retirement System as~~  
3030 ~~provided in s. 121.051(2) (d).~~

3031 ~~(c)1. With respect to an eligible employee who is employed~~  
3032 ~~in a regularly established position on December 1, 2002, by a~~  
3033 ~~local employer:~~

3034 ~~a. Any such employee may elect to participate in the Public~~  
3035 ~~Employee Optional Retirement Program in lieu of retaining his or~~  
3036 ~~her membership in the defined benefit program of the Florida~~  
3037 ~~Retirement System. The election must be made in writing or by~~  
3038 ~~electronic means and must be filed with the third-party~~  
3039 ~~administrator by February 28, 2003, or, in the case of an active~~  
3040 ~~employee who is on a leave of absence on October 1, 2002, by the~~  
3041 ~~last business day of the 5th month following the month the leave~~  
3042 ~~of absence concludes. This election is irrevocable, except as~~  
3043 ~~provided in paragraph (c). Upon making such election, the~~  
3044 ~~employee shall be enrolled as a participant of the Public~~  
3045 ~~Employee Optional Retirement Program, the employee's membership~~

20112100e2

3046 ~~in the Florida Retirement System shall be governed by the~~  
3047 ~~provisions of this part, and the employee's membership in the~~  
3048 ~~defined benefit program of the Florida Retirement System shall~~  
3049 ~~terminate. The employee's enrollment in the Public Employee~~  
3050 ~~Optional Retirement Program shall be effective the first day of~~  
3051 ~~the month for which a full month's employer contribution is made~~  
3052 ~~to the optional program.~~

3053 ~~b. Any such employee who fails to elect to participate in~~  
3054 ~~the Public Employee Optional Retirement Program within the~~  
3055 ~~prescribed time period is deemed to have elected to retain~~  
3056 ~~membership in the defined benefit program of the Florida~~  
3057 ~~Retirement System, and the employee's option to elect to~~  
3058 ~~participate in the optional program is forfeited.~~

3059 ~~2. With respect to employees who become eligible to~~  
3060 ~~participate in the Public Employee Optional Retirement Program~~  
3061 ~~by reason of employment in a regularly established position with~~  
3062 ~~a local employer commencing after October 1, 2002:~~

3063 ~~a. Any such employee shall, by default, be enrolled in the~~  
3064 ~~defined benefit retirement program of the Florida Retirement~~  
3065 ~~System at the commencement of employment, and may, by the last~~  
3066 ~~business day of the 5th month following the employee's month of~~  
3067 ~~hire, elect to participate in the Public Employee Optional~~  
3068 ~~Retirement Program. The employee's election must be made in~~  
3069 ~~writing or by electronic means and must be filed with the third-~~  
3070 ~~party administrator. The election to participate in the optional~~  
3071 ~~program is irrevocable, except as provided in paragraph (c).~~

3072 ~~b. If the employee files such election within the~~  
3073 ~~prescribed time period, enrollment in the optional program shall~~  
3074 ~~be effective on the first day of employment. The employer~~

20112100e2

3075 ~~retirement contributions paid through the month of the employee~~  
3076 ~~plan change shall be transferred to the optional program, and,~~  
3077 ~~effective the first day of the next month, the employer shall~~  
3078 ~~pay the applicable contributions based on the employee~~  
3079 ~~membership class in the optional program.~~

3080 ~~e. Any such employee who fails to elect to participate in~~  
3081 ~~the Public Employee Optional Retirement Program within the~~  
3082 ~~prescribed time period is deemed to have elected to retain~~  
3083 ~~membership in the defined benefit program of the Florida~~  
3084 ~~Retirement System, and the employee's option to elect to~~  
3085 ~~participate in the optional program is forfeited.~~

3086 ~~3. For purposes of this paragraph, "local employer" means~~  
3087 ~~any employer not included in paragraph (a) or paragraph (b).~~

3088 ~~(b)(d)~~ Contributions available for self-direction by a  
3089 member participant who has not selected one or more specific  
3090 investment products shall be allocated as prescribed by the  
3091 state board. The third-party administrator shall notify the  
3092 member any such participant at least quarterly that the member  
3093 participant should take an affirmative action to make an asset  
3094 allocation among the investment plan optional program products.

3095 (c) On or after July 1, 2011, a member of the pension plan  
3096 who obtains a refund of employee contributions retains his or  
3097 her prior plan choice upon return to employment in a regularly  
3098 established position with a participating employer.

3099 (d) A member of the investment plan who takes a  
3100 distribution of any contributions from his investment plan  
3101 account is considered a retiree. Upon reemployment in a  
3102 regularly established position with a participating employer,  
3103 the member returns as a new hire and, if applicable, may

20112100e2

3104 participate in the Florida Retirement System.

3105 (e) After the period during which an eligible employee had  
3106 the choice to elect the pension plan ~~defined benefit program~~ or  
3107 the investment plan ~~optional retirement program~~, or the month  
3108 following the receipt of the eligible employee's plan election,  
3109 if sooner, the employee shall have one opportunity, at the  
3110 employee's discretion, to choose to move from the pension plan  
3111 ~~defined benefit program~~ to the investment plan ~~optional~~  
3112 ~~retirement program~~ or from the investment plan ~~optional~~  
3113 ~~retirement program~~ to the pension plan ~~defined benefit program~~.  
3114 Eligible employees may elect to move between Florida Retirement  
3115 System programs only if they are earning service credit in an  
3116 employer-employee relationship consistent with s.

3117 121.021(17) (b), excluding leaves of absence without pay.  
3118 Effective July 1, 2005, such elections are effective on the  
3119 first day of the month following the receipt of the election by  
3120 the third-party administrator and are not subject to the  
3121 requirements regarding an employer-employee relationship or  
3122 receipt of contributions for the eligible employee in the  
3123 effective month, except when the election is received by the  
3124 third-party administrator. This paragraph is contingent upon  
3125 receiving approval from the Internal Revenue Service to include  
3126 ~~for including~~ the choice described herein within the programs  
3127 offered by the Florida Retirement System.

3128 1. If the employee chooses to move to the investment plan  
3129 ~~optional retirement program~~, the applicable provisions of  
3130 subsection (3) ~~this section shall~~ govern the transfer.

3131 2. If the employee chooses to move to the pension plan  
3132 ~~defined benefit program~~, the employee must transfer from his or

20112100e2

3133 her investment plan ~~optional retirement program~~ account, and  
3134 from other employee moneys as necessary, a sum representing the  
3135 present value of that employee's accumulated benefit obligation  
3136 immediately following the time of such movement, determined  
3137 assuming that attained service equals the sum of service in the  
3138 pension plan ~~defined benefit program~~ and service in the  
3139 investment plan ~~optional retirement program~~. Benefit  
3140 commencement occurs on the first date the employee is eligible  
3141 for unreduced benefits, using the discount rate and other  
3142 relevant actuarial assumptions that were used to value the  
3143 pension ~~defined benefit~~ plan liabilities in the most recent  
3144 actuarial valuation. For any employee who, at the time of the  
3145 second election, already maintains an accrued benefit amount in  
3146 the pension plan ~~defined benefit program~~, the then-present value  
3147 of the accrued benefit shall be deemed part of the required  
3148 transfer amount. The division shall ensure that the transfer sum  
3149 is prepared using a formula and methodology certified by an  
3150 enrolled actuary. A refund of any employee contributions or  
3151 additional member payments made which exceed the employee  
3152 contributions that would have accrued had the member remained in  
3153 the pension plan and not transferred to the investment plan is  
3154 not permitted.

3155 3. Notwithstanding subparagraph 2., an employee who chooses  
3156 to move to the pension plan ~~defined benefit program~~ and who  
3157 ~~became eligible to participate in the optional retirement~~  
3158 ~~program by reason of employment in a regularly established~~  
3159 ~~position with a state employer after June 1, 2002; a district~~  
3160 ~~school board employer after September 1, 2002; or a local~~  
3161 ~~employer after December 1, 2002,~~ must transfer from his or her

20112100e2

3162 investment plan ~~optional retirement program~~ account, and from  
3163 other employee moneys as necessary, a sum representing the  
3164 employee's actuarial accrued liability. A refund of any employee  
3165 contributions or additional participant payments made which  
3166 exceed the employee contributions that would have accrued had  
3167 the member remained in the pension plan and not transferred to  
3168 the investment plan is not permitted.

3169 4. An employee's ability to transfer from the pension plan  
3170 ~~defined benefit program~~ to the investment plan ~~optional~~  
3171 ~~retirement program~~ pursuant to paragraphs (a) and (b) ~~(a)-(d)~~,  
3172 and the ability of a current employee to have an option to later  
3173 transfer back into the pension plan ~~defined benefit program~~  
3174 under subparagraph 2., shall be deemed a significant system  
3175 amendment. Pursuant to s. 121.031(4), any resulting unfunded  
3176 liability arising from actual original transfers from the  
3177 pension plan ~~defined benefit program~~ to the investment plan  
3178 ~~optional program~~ must be amortized within 30 plan years as a  
3179 separate unfunded actuarial base independent of the reserve  
3180 stabilization mechanism defined in s. 121.031(3)(f). For the  
3181 first 25 years, a direct amortization payment may not be  
3182 calculated for this base. During this 25-year period, the  
3183 separate base shall be used to offset the impact of employees  
3184 exercising their second program election under this paragraph.  
3185 It is the intent of the Legislature that the actuarial funded  
3186 status of the pension plan ~~defined benefit program~~ not be  
3187 affected by such second program elections in any significant  
3188 manner, after due recognition of the separate unfunded actuarial  
3189 base. Following the initial 25-year period, any remaining  
3190 balance of the original separate base shall be amortized over

20112100e2

3191 the remaining 5 years of the required 30-year amortization  
3192 period.

3193 5. If the employee chooses to transfer from the investment  
3194 plan ~~optional retirement program~~ to the pension plan ~~defined~~  
3195 ~~benefit program~~ and retains an excess account balance in the  
3196 investment plan ~~optional program~~ after satisfying the buy-in  
3197 requirements under this paragraph, the excess may not be  
3198 distributed until the member retires from the pension plan  
3199 ~~defined benefit program~~. The excess account balance may be  
3200 rolled over to the pension plan ~~defined benefit program~~ and used  
3201 to purchase service credit or upgrade creditable service in that  
3202 program.

3203 (f) On or after July 1, 2011, a member of the pension plan  
3204 who obtains a refund of employee contributions retains his or  
3205 her prior plan choice upon return to employment in a regularly  
3206 established position with a participating employer.

3207 (g) A member of the investment plan who takes a  
3208 distribution of any contributions from his or her investment  
3209 plan account is considered a retiree. Upon reemployment in a  
3210 regularly established position with a participating employer,  
3211 the member returns as a new hire and, if applicable, may  
3212 participate in the Florida Retirement System.

3213 (5) CONTRIBUTIONS.—

3214 (a) The Each employer and employee shall make the required  
3215 contributions to the investment plan based on a percentage of  
3216 the employee's gross monthly compensation ~~contribute on behalf~~  
3217 ~~of each participant in the Public Employee optional retirement~~  
3218 ~~Program~~, as provided in part III of this chapter.

3219 (b) Employee contributions shall be paid on a pretax basis,

20112100e2

3220 as provided in s. 121.71(2).

3221 (c) The state board, acting as plan fiduciary, shall ensure  
3222 that all plan assets are held in a trust, pursuant to s. 401 of  
3223 the Internal Revenue Code. The fiduciary shall ensure that said  
3224 contributions are allocated as follows:

3225 1. The employer and employee portion earmarked for member  
3226 ~~participant~~ accounts shall be used to purchase interests in the  
3227 appropriate investment vehicles ~~for the accounts of each~~  
3228 ~~participant~~ as specified by the member participant, or in  
3229 accordance with paragraph (4) (b) ~~(4) (d)~~.

3230 2. The employer portion earmarked for administrative and  
3231 educational expenses shall be transferred to the state board.

3232 3. The employer portion earmarked for disability benefits  
3233 shall be transferred to the department.

3234 ~~(d) (b)~~ The third-party administrator is ~~Employers are~~  
3235 responsible for monitoring and notifying employers of the  
3236 ~~participants regarding~~ maximum contribution levels allowed for  
3237 members permitted under the Internal Revenue Code. If a member  
3238 ~~participant~~ contributes to any other tax-deferred plan, the  
3239 member ~~he or she~~ is responsible for ensuring that total  
3240 contributions made to the investment plan ~~optional program~~ and  
3241 to any other such plan do not exceed federally permitted  
3242 maximums.

3243 ~~(e) (e)~~ The investment plan ~~Public Employee Optional~~  
3244 ~~Retirement Program~~ may accept for deposit into member  
3245 ~~participant~~ accounts contributions in the form of rollovers or  
3246 direct trustee-to-trustee transfers by or on behalf of members  
3247 ~~participants~~, reasonably determined by the state board to be  
3248 eligible for rollover or transfer to the investment plan



20112100e2

3249 ~~optional retirement program~~ pursuant to the Internal Revenue  
3250 Code, if such contributions are made in accordance with rules ~~as~~  
3251 ~~may be~~ adopted by the board. Such contributions must ~~shall~~ be  
3252 accounted for in accordance with ~~any~~ applicable Internal Revenue  
3253 Code requirements and rules of the state board.

3254 (6) VESTING REQUIREMENTS.—

3255 (a) A member is fully and immediately vested in all  
3256 employee contributions paid to the investment plan as provided  
3257 in s. 121.72(2), plus interest and earnings thereon and less  
3258 investment fees and administrative charges.

3259 (b) ~~(a)~~1. With respect to employer contributions paid on  
3260 behalf of a member of the participant to the investment plan  
3261 optional retirement program, plus interest and earnings thereon  
3262 and less investment fees and administrative charges, a member  
3263 who voluntarily elected to enroll in the investment plan before  
3264 July 1, 2011, or an eligible employee initially enrolled in the  
3265 Florida Retirement System before July 1, 2011, who has the  
3266 option to voluntarily elect to enroll in the investment plan,  
3267 participant is vested after completing 1 work year with an  
3268 employer, including any service while the employee participant  
3269 was a member of the pension plan defined benefit program or an  
3270 optional retirement program authorized under s. 121.051(2)(c),  
3271 ~~or~~ s. 121.055(6), or s. 121.35.

3272 2. With respect to employer contributions paid on behalf of  
3273 the member of the investment plan, plus interest and earnings  
3274 thereon and less investment fees and administrative charges, an  
3275 employee initially enrolled in the Florida Retirement System on  
3276 or after July 1, 2011, is vested according to the following  
3277 schedule:

20112100e2

- 3278        a. Upon completion of 1 year of service.....20%
- 3279        b. Upon completion of 2 years of service.....40%
- 3280        c. Upon completion of 3 years of service.....60%
- 3281        d. Upon completion of 4 years of service.....80%
- 3282        e. Upon completion of 5 or more years of service.....100%

3283

3284        Years of service includes any service completed while the

3285        employee was a member of the pension plan or an optional

3286        retirement program authorized under s. 121.051(2)(c), s.

3287        121.055(6), or s. 121.35.

3288        ~~3.2.~~ If the member participant terminates employment before

3289        satisfying the vesting requirements, the nonvested accumulation

3290        must be transferred from the member's participant's accounts to

3291        the state board for deposit and investment by the state board in

3292        the suspense account created within the Florida Public Employee

3293        ~~Optional Retirement System Investment Plan Program~~ Trust Fund.

3294        If the terminated member participant is reemployed as an

3295        eligible employee within 5 years, the state board shall transfer

3296        to the member's participant's account any amount previously

3297        transferred from the member's participant's accounts to the

3298        suspense account, plus actual earnings on such amount while in

3299        the suspense account.

3300        ~~(c)(b)~~1. With respect to amounts contributed by an employer

3301        and transferred from the pension plan defined benefit program to

3302        the investment plan program, plus interest and earnings, and

3303        less investment fees and administrative charges, a member

3304        ~~participant~~ shall be vested in the amount transferred upon

3305        meeting the service requirements for the member's participant's

3306        membership class as set forth in s. 121.021(29). The third-party

20112100e2

3307 administrator shall account for such amounts for each member  
3308 ~~participant~~. The division shall notify the member ~~participant~~  
3309 and the third-party administrator when the member ~~participant~~  
3310 has satisfied the vesting period for Florida Retirement System  
3311 purposes.

3312 2. If the member ~~participant~~ terminates employment before  
3313 satisfying the vesting requirements, the nonvested employer  
3314 accumulation must be transferred from the member's ~~participant's~~  
3315 accounts to the state board for deposit and investment by the  
3316 state board in the suspense account created within the Florida  
3317 ~~Public Employee Optional Retirement System Investment Plan~~  
3318 ~~Program~~ Trust Fund. If the terminated member ~~participant~~ is  
3319 reemployed as an eligible employee within 5 years, the state  
3320 board shall transfer to the member's ~~participant's~~ account any  
3321 amount previously transferred from the member's ~~participant's~~  
3322 accounts to the suspense account, plus the actual earnings on  
3323 such amount while in the suspense account.

3324 (d) ~~(e)~~ Any nonvested accumulations transferred from a  
3325 member's ~~participant's~~ account to the state board's suspense  
3326 account, including any accompanying service credit, shall be  
3327 forfeited by the member ~~participant~~ if the member ~~participant~~ is  
3328 not reemployed as an eligible employee within 5 years after  
3329 termination.

3330 (e) If the member elects to receive any of his or her  
3331 vested employer or employee contributions upon termination of  
3332 employment as defined in s. 121.021, except for a mandatory  
3333 distribution of a de minimis account authorized by the state  
3334 board or a minimum required distribution provided by s.  
3335 401(a)(9) of the Internal Revenue Code, the employee shall

20112100e2

3336 forfeit all nonvested employer contributions and accompanying  
 3337 service credit paid on behalf of the employee to the investment  
 3338 plan.

3339 (7) BENEFITS.—Under the investment plan the normal  
 3340 retirement date is the date on which a member attains age 62 or  
 3341 completes 5 years of service, whichever occurs later. Plan  
 3342 benefits must ~~Public Employee Optional Retirement program:~~

3343 (a) ~~Benefits shall~~ Be provided in accordance with s. 401(a)  
 3344 of the Internal Revenue Code.

3345 (b) ~~Benefits shall~~ Accrue in individual accounts that are  
 3346 member-directed ~~participant-directed~~, portable, and funded by  
 3347 employer and employee contributions and earnings thereon.

3348 (c) ~~Benefits shall~~ Be payable in accordance with ~~the~~  
 3349 ~~provisions of~~ s. 121.591.

3350 (8) ADMINISTRATION OF PLAN PROGRAM.—

3351 ~~(a) The~~ investment plan ~~optional retirement program~~ shall  
 3352 be administered by the state board and affected employers. The  
 3353 state board may require oaths, by affidavit or otherwise, and  
 3354 acknowledgments from persons in connection with the  
 3355 administration of its statutory duties and responsibilities for  
 3356 the plan ~~this program~~. An oath, by affidavit or otherwise, may  
 3357 not be required of an employee ~~participant~~ at the time of  
 3358 enrollment. For members enrolled before July 1, 2011,  
 3359 acknowledgment of an employee's election to enroll ~~participate~~  
 3360 in the plan ~~may program~~ shall be no greater than necessary to  
 3361 confirm the employee's election. The state board shall adopt  
 3362 rules to carry out its statutory duties with respect to  
 3363 administering the investment plan ~~optional retirement program~~,  
 3364 including ~~establishing~~ the roles and responsibilities of

20112100e2

3365 affected state, local government, and education-related  
3366 employers, the state board, the department, and third-party  
3367 contractors. The department shall adopt rules necessary to  
3368 administer the investment plan ~~optional program~~ in coordination  
3369 with the pension plan ~~defined benefit program~~ and the disability  
3370 benefits available under the investment plan ~~optional program~~.

3371 ~~(a)-(b)~~1. The state board shall select and contract with a  
3372 ~~one~~ third-party administrator to provide administrative services  
3373 if those services cannot be competitively and contractually  
3374 provided by the division ~~of Retirement within the Department of~~  
3375 ~~Management Services~~. With the approval of the state board, the  
3376 third-party administrator may subcontract ~~with other~~  
3377 ~~organizations or individuals~~ to provide components of the  
3378 administrative services. As a cost of administration, the state  
3379 board may compensate ~~any~~ such contractor for its services, in  
3380 accordance with the terms of the contract, as is deemed  
3381 necessary or proper by the board. The third-party administrator  
3382 may not be an approved provider or be affiliated with an  
3383 approved provider.

3384 2. These administrative services may include, but are not  
3385 limited to, enrollment of eligible employees, collection of  
3386 employer and employee contributions, disbursement of ~~such~~  
3387 contributions to approved providers in accordance with the  
3388 allocation directions of members ~~participants~~; services relating  
3389 to consolidated billing; individual and collective recordkeeping  
3390 and accounting; asset purchase, control, and safekeeping; and  
3391 direct disbursement of funds to and from the third-party  
3392 administrator, the division, the state board, employers, plan  
3393 members ~~participants~~, approved providers, and beneficiaries.

20112100e2

3394 This section does not prevent or prohibit a bundled provider  
3395 from providing any administrative or customer service, including  
3396 accounting and administration of individual member ~~participant~~  
3397 benefits and contributions; individual member ~~participant~~  
3398 recordkeeping; asset purchase, control, and safekeeping; direct  
3399 execution of the member's ~~participant's~~ instructions as to asset  
3400 and contribution allocation; calculation of daily net asset  
3401 values; direct access to member ~~participant~~ account information;  
3402 or periodic reporting to members ~~participants~~, at least  
3403 quarterly, on account balances and transactions, if these  
3404 services are authorized by the state board as part of the  
3405 contract.

3406 (b)1.3. The state board shall select and contract with one  
3407 or more organizations to provide educational services. With  
3408 approval of the state board, the organizations may subcontract  
3409 ~~with other organizations or individuals~~ to provide components of  
3410 the educational services. As a cost of administration, the state  
3411 board may compensate any such contractor for its services in  
3412 accordance with the terms of the contract, as is deemed  
3413 necessary or proper by the board. The education organization may  
3414 not be an approved provider or be affiliated with an approved  
3415 provider.

3416 2.4. Educational services shall be designed by the state  
3417 board and department to assist employers, eligible employees,  
3418 members ~~participants~~, and beneficiaries in order to maintain  
3419 compliance with United States Department of Labor regulations  
3420 under s. 404(c) of the Employee Retirement Income Security Act  
3421 of 1974, ~~and~~ to assist employees in understanding their ~~choice~~  
3422 ~~of defined benefit or defined contribution~~ retirement program,

20112100e2

3423 and, if applicable, the choice between the pension plan and the  
3424 investment plan alternatives. Educational services include, but  
3425 are not limited to, disseminating educational materials;  
3426 providing retirement planning education; explaining the pension  
3427 ~~differences between the defined benefit retirement~~ plan and the  
3428 investment defined contribution retirement plan; and offering  
3429 financial planning guidance on matters such as investment  
3430 diversification, investment risks, investment costs, and asset  
3431 allocation. An approved provider may also provide educational  
3432 information, including retirement planning and investment  
3433 allocation information concerning its products and services.

3434 (c)1. In evaluating and selecting a third-party  
3435 administrator, the state board shall establish criteria for  
3436 evaluating ~~under which it shall consider~~ the relative  
3437 capabilities and qualifications of each proposed administrator.  
3438 In developing such criteria, the state board shall consider:

3439 a. The administrator's demonstrated experience in providing  
3440 administrative services to public or private sector retirement  
3441 systems.

3442 b. The administrator's demonstrated experience in providing  
3443 daily valued recordkeeping for investment ~~to defined~~  
3444 ~~contribution~~ plans.

3445 c. The administrator's ability and willingness to  
3446 coordinate its activities with ~~the Florida Retirement System~~  
3447 employers, the state board, and the division, and to supply to  
3448 such employers, the board, and the division the information and  
3449 data they require, including, but not limited to, monthly  
3450 management reports, quarterly member participant reports, and ad  
3451 hoc reports requested by the department or state board.

20112100e2

3452 d. The cost-effectiveness and levels of the administrative  
3453 services provided.

3454 e. The administrator's ability to interact with the members  
3455 ~~participants~~, the employers, the state board, the division, and  
3456 the providers; the means by which members ~~participants~~ may  
3457 access account information, direct investment of contributions,  
3458 make changes to their accounts, transfer moneys between  
3459 available investment vehicles, and transfer moneys between  
3460 investment products; and any fees that apply to such activities.

3461 f. Any other factor deemed necessary by the ~~Trustees of the~~  
3462 state board ~~of Administration~~.

3463 2. In evaluating and selecting an educational provider, the  
3464 state board shall establish criteria under which it shall  
3465 consider the relative capabilities and qualifications of each  
3466 proposed educational provider. In developing such criteria, the  
3467 board shall consider:

3468 a. Demonstrated experience in providing educational  
3469 services to public or private sector retirement systems.

3470 b. Ability and willingness to coordinate its activities  
3471 with the ~~Florida Retirement System~~ employers, the state board,  
3472 and the division, and to supply to such employers, the board,  
3473 and the division the information and data they require,  
3474 including, but not limited to, reports on educational contacts.

3475 c. The cost-effectiveness and levels of the educational  
3476 services provided.

3477 d. Ability to provide educational services via different  
3478 media, including, but not limited to, the Internet, personal  
3479 contact, seminars, brochures, and newsletters.

3480 e. Any other factor deemed necessary by the ~~Trustees of the~~



20112100e2

3481 state board ~~of Administration~~.

3482 3. The establishment of the criteria shall be solely within  
3483 the discretion of the state board.

3484 (d) The state board shall develop the form and content of  
3485 any contracts to be offered under the investment plan ~~Public~~  
3486 ~~Employee Optional Retirement Program~~. In developing the ~~its~~  
3487 contracts, the state board shall ~~must~~ consider:

3488 1. The nature and extent of the rights and benefits to be  
3489 afforded in relation to the ~~required~~ contributions required  
3490 under the plan ~~program~~.

3491 2. The suitability of the rights and benefits provided ~~to~~  
3492 ~~be afforded~~ and the interests of employers in the recruitment  
3493 and retention of eligible employees.

3494 (e)1. The state board may contract ~~with any consultant~~ for  
3495 professional services, including legal, consulting, accounting,  
3496 and actuarial services, deemed necessary to implement and  
3497 administer the investment plan ~~optional program~~ ~~by the Trustees~~  
3498 ~~of the state board of Administration~~. The state board may enter  
3499 into a contract with one or more vendors to provide low-cost  
3500 investment advice to members ~~participants~~, supplemental to  
3501 education provided by the third-party administrator. All fees  
3502 under ~~any~~ such contract shall be paid by those members  
3503 ~~participants~~ who choose to use the services of the vendor.

3504 2. The department may contract ~~with consultants~~ for  
3505 professional services, including legal, consulting, accounting,  
3506 and actuarial services, deemed necessary to implement and  
3507 administer the investment plan ~~optional program~~ in coordination  
3508 with the pension plan ~~defined benefit program~~ ~~of the Florida~~  
3509 ~~Retirement System~~. The department, in coordination with the

20112100e2

3510 state board, may enter into a contract with the third-party  
3511 administrator in order to coordinate services common to the  
3512 various programs within the Florida Retirement System.

3513 (f) The third-party administrator may ~~shall~~ not receive  
3514 direct or indirect compensation from an approved provider,  
3515 except as specifically provided for in the contract with the  
3516 state board.

3517 (g) The state board shall receive and resolve member  
3518 ~~participant~~ complaints against the investment plan ~~program~~, the  
3519 third-party administrator, or any plan ~~program~~ vendor or  
3520 provider; shall resolve any conflict between the third-party  
3521 administrator and an approved provider if such conflict  
3522 threatens the implementation or administration of the plan  
3523 ~~program~~ or the quality of services to employees; and may resolve  
3524 any other conflicts. The third-party administrator shall retain  
3525 all member ~~participant~~ records for at least 5 years for use in  
3526 resolving any member ~~participant~~ conflicts. The state board, the  
3527 third-party administrator, or a provider is not required to  
3528 produce documentation or an audio recording to justify action  
3529 taken with regard to a member ~~participant~~ if the action occurred  
3530 5 or more years before the complaint is submitted to the state  
3531 board. It is presumed that all action taken 5 or more years  
3532 before the complaint is submitted was taken at the request of  
3533 the member ~~participant~~ and with the member's ~~participant's~~ full  
3534 knowledge and consent. To overcome this presumption, the member  
3535 ~~participant~~ must present documentary evidence or an audio  
3536 recording demonstrating otherwise.

3537 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

3538 (a) The state board shall develop policy and procedures for

20112100e2

3539 selecting, evaluating, and monitoring the performance of  
3540 approved providers and investment products ~~to which employees~~  
3541 ~~may direct retirement contributions~~ under the investment plan  
3542 ~~program~~. In accordance with such policy and procedures, the  
3543 state board shall designate and contract for a number of  
3544 investment products as determined by the state board. The state  
3545 board shall also select one or more bundled providers, each of  
3546 which ~~whom~~ may offer multiple investment options and related  
3547 services, if ~~when~~ such an approach is determined by the state  
3548 board to provide ~~afford~~ value to the members ~~participants~~  
3549 otherwise not available through individual investment products.  
3550 Each approved bundled provider may offer investment options that  
3551 provide members ~~participants~~ with the opportunity to invest in  
3552 each of the following asset classes, to be composed of  
3553 individual options that represent ~~either~~ a single asset class or  
3554 a combination thereof: money markets, United States fixed  
3555 income, United States equities, and foreign stock. The state  
3556 board shall review and manage all educational materials,  
3557 contract terms, fee schedules, and other aspects of ~~the~~ approved  
3558 provider relationships to ensure that no provider is unduly  
3559 favored or penalized by virtue of its status within the  
3560 investment plan.

3561 (b) The state board shall consider investment options or  
3562 products it considers appropriate to give members ~~participants~~  
3563 the opportunity to accumulate retirement benefits, subject to  
3564 the following:

3565 1. The investment plan ~~Public Employee Optional Retirement~~  
3566 ~~Program~~ must offer a diversified mix of low-cost investment  
3567 products that span the risk-return spectrum and may include a

20112100e2

3568 guaranteed account as well as investment products, such as  
3569 individually allocated guaranteed and variable annuities, which  
3570 meet the requirements of this subsection and combine the ability  
3571 to accumulate investment returns with the option of receiving  
3572 lifetime income consistent with the long-term retirement  
3573 security of a pension plan and similar to the lifetime-income  
3574 benefit provided by the Florida Retirement System.

3575 2. Investment options or products offered by ~~the group of~~  
3576 approved providers may include mutual funds, group annuity  
3577 contracts, individual retirement annuities, interests in trusts,  
3578 collective trusts, separate accounts, and other such financial  
3579 instruments, and ~~may include~~ products that give members  
3580 ~~participants~~ the option of committing their contributions for an  
3581 extended time period in an effort to obtain returns higher than  
3582 those that could be obtained from investment products offering  
3583 full liquidity.

3584 3. The state board ~~may shall~~ not contract with a any  
3585 provider that imposes a front-end, back-end, contingent, or  
3586 deferred sales charge, or any other fee that limits or restricts  
3587 the ability of members ~~participants~~ to select any investment  
3588 product available in the investment plan ~~optional program~~. This  
3589 prohibition does not apply to fees or charges that are imposed  
3590 on withdrawals from products that give members ~~participants~~ the  
3591 option of committing ~~their~~ contributions for an extended time  
3592 period in an effort to obtain returns higher than those that  
3593 could be obtained from investment products offering full  
3594 liquidity, provided that the product ~~in question~~, net of all  
3595 fees and charges, produces material benefits relative to other  
3596 comparable products in the plan ~~program~~ offering full liquidity.

20112100e2

3597 4. Fees or charges for insurance features, such as  
3598 mortality and expense-risk charges, must be reasonable relative  
3599 to the benefits provided.

3600 (c) In evaluating and selecting approved providers and  
3601 products, the state board shall establish criteria for  
3602 evaluating ~~under which it shall consider~~ the relative  
3603 capabilities and qualifications of each proposed provider  
3604 company and product. In developing such criteria, the state  
3605 board shall consider the following to the extent such factors  
3606 may be applied in connection with investment products, services,  
3607 or providers:

3608 1. Experience in the United States providing retirement  
3609 products and related financial services under investment ~~defined~~  
3610 ~~contribution retirement~~ plans.

3611 2. Financial strength and stability as ~~which shall be~~  
3612 evidenced by the highest ratings assigned by nationally  
3613 recognized rating services when comparing proposed providers  
3614 that are so rated.

3615 3. Intrastate and interstate portability of the product  
3616 offered, including early withdrawal options.

3617 4. Compliance with the Internal Revenue Code.

3618 5. The cost-effectiveness of the product provided and the  
3619 levels of service supporting the product relative to its  
3620 benefits and its characteristics, including, ~~without limitation,~~  
3621 the level of risk borne by the provider.

3622 6. The provider company's ability and willingness to  
3623 coordinate its activities with Florida Retirement System  
3624 employers, the department, and the state board, and to supply ~~to~~  
3625 the ~~such~~ employers, the department, and the state board with the

20112100e2

3626 information and data they require.

3627 7. The methods available to members ~~participants~~ to  
3628 interact with the provider company; the means by which members  
3629 ~~participants~~ may access account information, direct investment  
3630 of contributions, make changes to their accounts, transfer  
3631 moneys between available investment vehicles, and transfer  
3632 moneys between provider companies; and any fees that apply to  
3633 such activities.

3634 8. The provider company's policies with respect to the  
3635 transfer of individual account balances, contributions, and  
3636 earnings thereon, both internally among investment products  
3637 offered by the provider company and externally between approved  
3638 providers, as well as any fees, charges, reductions, or  
3639 penalties that may be applied.

3640 9. An evaluation of specific investment products, taking  
3641 into account each product's experience in meeting its investment  
3642 return objectives net of all related fees, expenses, and  
3643 charges, including, but not limited to, investment management  
3644 fees, loads, distribution and marketing fees, custody fees,  
3645 recordkeeping fees, education fees, annuity expenses, and  
3646 consulting fees.

3647 10. Organizational factors, including, but not limited to,  
3648 financial solvency, organizational depth, and experience in  
3649 providing institutional and retail investment services.

3650 (d) ~~By March 1, 2010,~~ The state board shall identify and  
3651 offer at least one terror-free investment product that allocates  
3652 its funds among securities not subject to divestiture as  
3653 provided in s. 215.473 if the investment product is deemed by  
3654 the state board to be consistent with prudent investor

20112100e2

3655 standards. No person may bring a civil, criminal, or  
3656 administrative action against an approved provider; the state  
3657 board; or any employee, officer, director, or trustee of such  
3658 provider based upon the divestiture of any security or the  
3659 offering of a terror-free investment product as specified in  
3660 this paragraph.

3661 (e) As a condition of offering an ~~any~~ investment option or  
3662 product in the investment plan ~~optional retirement program~~, the  
3663 approved provider must agree to make the investment product or  
3664 service available under the most beneficial terms offered to any  
3665 other customer, subject to approval by the ~~Trustees of the state~~  
3666 ~~board of Administration~~.

3667 (f) The state board shall regularly review the performance  
3668 of each approved provider and product and related organizational  
3669 factors to ensure continued compliance with established  
3670 selection criteria and with board policy and procedures.  
3671 Providers and products may be terminated subject to contract  
3672 provisions. The state board shall adopt procedures to transfer  
3673 account balances from terminated products or providers to other  
3674 products or providers in the investment plan ~~optional program~~.

3675 (g)1. An approved provider shall comply with all applicable  
3676 federal and state securities and insurance laws and regulations  
3677 ~~applicable to the provider~~, as well as with the applicable rules  
3678 and guidelines of the National Association of Securities Dealers  
3679 which govern the ethical marketing of investment products. In  
3680 furtherance of this mandate, an approved provider must agree in  
3681 its contract with the state board to establish and maintain a  
3682 compliance education and monitoring system to supervise the  
3683 activities of all personnel who directly communicate with

20112100e2

3684 individual members ~~participants~~ and recommend investment  
3685 products, which system is consistent with rules of the National  
3686 Association of Securities Dealers.

3687 2. Approved provider personnel who directly communicate  
3688 with individual members ~~participants~~ and who recommend  
3689 investment products shall make an independent and unbiased  
3690 determination as to whether an investment product is suitable  
3691 for a particular member ~~participant~~.

3692 3. The state board shall develop procedures to receive and  
3693 resolve member ~~participant~~ complaints against a provider or  
3694 approved provider personnel, and, if ~~when~~ appropriate, refer  
3695 such complaints to the appropriate agency.

3696 4. Approved providers may not sell or in any way distribute  
3697 any customer list or member ~~participant~~ identification  
3698 information generated through their offering of products or  
3699 services through the investment plan ~~optional retirement~~  
3700 ~~program~~.

3701 (10) EDUCATION COMPONENT.—

3702 (a) The state board, in coordination with the department,  
3703 shall provide ~~for~~ an education component for eligible employees  
3704 ~~system members~~ in a manner consistent with ~~the provisions of~~  
3705 this section. The education component must be available to  
3706 eligible employees at least 90 days before ~~prior to~~ the  
3707 beginning date of the election period for the employees of the  
3708 respective types of employers.

3709 (b) The education component must provide eligible employees  
3710 ~~system members~~ with impartial and balanced information about  
3711 plan choices. The education component must involve multimedia  
3712 formats. Plan Program ~~comparisons~~ must, to the greatest extent



20112100e2

3713 possible, be based upon the retirement income that different  
3714 retirement programs may provide to the member ~~participant~~. The  
3715 state board shall monitor the performance of the contract for  
3716 the education component to ensure that the program is conducted  
3717 in accordance with the contract, applicable law, and the rules  
3718 of the board.

3719 (c) The state board, in coordination with the department,  
3720 shall provide for an initial and ongoing transfer education  
3721 component to provide system members with information necessary  
3722 to make informed plan choice decisions. The transfer education  
3723 component must include, but is not limited to, information on:

3724 1. The amount of money available to a member to transfer to  
3725 the investment plan ~~defined contribution program~~.

3726 2. The features of and differences between the pension plan  
3727 ~~defined benefit program~~ and the investment plan ~~defined~~  
3728 ~~contribution program~~, both generally and specifically, as those  
3729 differences may affect the member.

3730 3. The expected benefit available if the member were to  
3731 retire under each of the retirement programs, based on  
3732 appropriate alternative sets of assumptions.

3733 4. The rate of return from investments in the investment  
3734 plan ~~defined contribution program~~ and the period of time over  
3735 which such rate of return must be achieved to equal or exceed  
3736 the expected monthly benefit payable to the member under the  
3737 pension plan ~~defined benefit program~~.

3738 5. The historical rates of return for the investment  
3739 alternatives available in the investment plan ~~defined~~  
3740 ~~contribution programs~~.

3741 6. The benefits and historical rates of return on

20112100e2

3742 investments available in a typical deferred compensation plan or  
3743 a typical plan under s. 403(b) of the Internal Revenue Code for  
3744 which the employee may be eligible.

3745 7. The program choices available to employees of the State  
3746 University System and the comparative benefits of each available  
3747 program, if applicable.

3748 8. Payout options available in each of the retirement  
3749 programs.

3750 (d) An ongoing education and communication component must  
3751 provide eligible employees ~~system members~~ with information  
3752 necessary to make informed decisions about choices within their  
3753 retirement program ~~of membership~~ and in preparation for  
3754 retirement. The component must include, but is not limited to,  
3755 information concerning:

3756 1. Rights and conditions of membership.

3757 2. Benefit features within the program, options, and  
3758 effects of certain decisions.

3759 3. Coordination of contributions and benefits with a  
3760 deferred compensation plan under s. 457 or a plan under s.  
3761 403(b) of the Internal Revenue Code.

3762 4. Significant program changes.

3763 5. Contribution rates and program funding status.

3764 6. Planning for retirement.

3765 (e) Descriptive materials must be prepared under the  
3766 assumption that the employee is an unsophisticated investor, and  
3767 all materials used in the education component must be approved  
3768 by the state board before ~~prior to~~ dissemination.

3769 (f) The state board and the department shall also establish  
3770 a communication component to provide program information to

20112100e2

3771 participating employers and the employers' personnel and payroll  
3772 officers and to explain their respective responsibilities in  
3773 conjunction with the retirement programs.

3774 (g) Funding for education of new employees may reflect  
3775 administrative costs to the investment plan ~~optional program~~ and  
3776 the pension plan ~~defined benefit program~~.

3777 (h) Pursuant to paragraph (8) (a), all Florida Retirement  
3778 System employers have an obligation to regularly communicate the  
3779 existence of the two Florida Retirement System plans and the  
3780 plan choice in the natural course of administering their  
3781 personnel functions, using the educational materials supplied by  
3782 the state board and the department ~~of Management Services~~.

3783 (11) MEMBER PARTICIPANT INFORMATION REQUIREMENTS.—The state  
3784 board shall ensure that each member participant is provided a  
3785 quarterly statement that accounts for employer and employee the  
3786 contributions made on behalf of the member ~~such participant~~; the  
3787 interest and investment earnings thereon; and any fees,  
3788 penalties, or other deductions that apply ~~thereto~~. At a minimum,  
3789 such statements must:

3790 (a) Indicate the member's ~~participant's~~ investment options.

3791 (b) State the market value of the account at the close of  
3792 the current quarter and previous quarter.

3793 (c) Show account gains and losses ~~for the period~~ and  
3794 changes in account accumulation unit values for the quarter  
3795 period.

3796 (d) Itemize account contributions for the quarter.

3797 (e) Indicate any account changes due to adjustment of  
3798 contribution levels, reallocation of contributions, balance  
3799 transfers, or withdrawals.

20112100e2

3800 (f) Set forth any fees, charges, penalties, and deductions  
3801 that apply to the account.

3802 (g) Indicate the amount of the account in which the member  
3803 ~~participant~~ is fully vested and the amount of the account in  
3804 which the member participant is not vested.

3805 (h) Indicate each investment product's performance relative  
3806 to an appropriate market benchmark.

3807

3808 The third-party administrator shall provide quarterly and annual  
3809 summary reports to the state board and any other reports  
3810 requested by the department or the board. In any solicitation or  
3811 offer of coverage under the investment plan ~~an optional~~  
3812 ~~retirement program~~, a provider company shall be governed by the  
3813 contract readability provisions of s. 627.4145, notwithstanding  
3814 s. 627.4145(6)(c). In addition, all descriptive materials must  
3815 be prepared under the assumption that the member participant is  
3816 an unsophisticated investor. Provider companies must maintain an  
3817 internal system of quality assurance, have proven functional  
3818 systems that are date-calculation compliant, and be subject to a  
3819 due-diligence inquiry that proves their capacity and fitness to  
3820 undertake service responsibilities.

3821 (12) ADVISORY COUNCIL TO PROVIDE ADVICE AND ASSISTANCE.—The  
3822 Investment Advisory Council, created pursuant to s. 215.444,  
3823 shall assist the state board in implementing and administering  
3824 the investment plan ~~Public Employee Optional Retirement Program~~.  
3825 The ~~Investment Advisory council, created pursuant to s. 215.444,~~  
3826 shall review the state board's initial recommendations regarding  
3827 the criteria to be used in selecting and evaluating approved  
3828 providers and investment products. The council may provide

20112100e2

3829 comments on the recommendations to the board within 45 days  
3830 after receiving the initial recommendations. The state board  
3831 shall make the final determination as to whether any investment  
3832 provider or product, any contractor, or any and all contract  
3833 provisions are ~~shall be~~ approved for the investment plan  
3834 program.

3835 (13) FEDERAL REQUIREMENTS.—

3836 (a) ~~Provisions of~~ This section shall be construed, and the  
3837 investment plan ~~Public Employee Optional Retirement Program~~  
3838 shall be administered, so as to comply with the Internal Revenue  
3839 Code, 26 U.S.C., and specifically with plan qualification  
3840 requirements imposed on governmental plans under s. 401(a) of  
3841 the Internal Revenue Code. The state board may ~~shall have the~~  
3842 ~~power and authority to~~ adopt rules reasonably necessary to  
3843 establish or maintain the qualified status of the investment  
3844 plan ~~Optional Retirement Program~~ under the Internal Revenue Code  
3845 and to implement and administer the plan ~~Optional Retirement~~  
3846 ~~Program~~ in compliance with the Internal Revenue Code and this  
3847 part; ~~provided~~ however, ~~that~~ the board may ~~shall not have the~~  
3848 ~~authority to~~ adopt any rule which makes a substantive change to  
3849 the investment plan ~~Optional Retirement Program~~ as designed by  
3850 this part.

3851 (b) Any section or provision of this chapter which is  
3852 susceptible to more than one construction shall ~~must~~ be  
3853 interpreted in favor of the construction most likely to satisfy  
3854 requirements imposed by s. 401(a) of the Internal Revenue Code.

3855 (c) Employer and employee contributions payable under this  
3856 section for any limitation year may not exceed the maximum  
3857 amount allowable for qualified defined contribution ~~pension~~

20112100e2

3858 plans under applicable provisions of the Internal Revenue Code.  
3859 If an employee who is enrolled ~~who has elected to participate~~ in  
3860 the investment plan enrolls ~~Public Employee Optional Retirement~~  
3861 ~~Program participates~~ in any other plan that is maintained by the  
3862 participating employer, benefits that accrue under the  
3863 investment plan are ~~Public Employee Optional Retirement Program~~  
3864 ~~shall be~~ considered primary for any aggregate limitation  
3865 applicable under s. 415 of the Internal Revenue Code.

3866 (14) INVESTMENT POLICY STATEMENT.—

3867 (a) Investment products and approved providers selected for  
3868 the investment plan ~~Public Employee Optional Retirement Program~~  
3869 must ~~shall~~ conform with the Florida Public Employee Optional  
3870 Retirement System Program Investment Plan Policy Statement,  
3871 herein referred to as the "statement," as developed and approved  
3872 by the ~~Trustees of the~~ state board of ~~Administration~~. The  
3873 statement must include, among other items, the investment  
3874 objectives of the investment plan ~~Public Employee Optional~~  
3875 ~~Retirement Program~~, manager selection and monitoring guidelines,  
3876 and performance measurement criteria. As required from time to  
3877 time, the executive director of the state board may present  
3878 recommended changes in the statement to the board for approval.

3879 (b) Before ~~Prior to~~ presenting the statement, or any  
3880 recommended changes ~~thereto~~, to the state board, the executive  
3881 director of the board shall present such statement or changes to  
3882 the Investment Advisory Council for review. The council shall  
3883 present the results of its review to the board prior to the  
3884 board's final approval of the statement or changes in the  
3885 statement.

3886 (15) STATEMENT OF FIDUCIARY STANDARDS AND

20112100e2

3887 RESPONSIBILITIES.—

3888 (a) Investment of investment plan ~~optional defined~~  
3889 ~~contribution retirement plan~~ assets shall be made for the sole  
3890 interest and exclusive purpose of providing benefits to plan  
3891 members participants and beneficiaries and defraying reasonable  
3892 expenses of administering the plan. The program's assets shall  
3893 ~~are to be invested,~~ on behalf of the members program  
3894 ~~participants,~~ with the care, skill, and diligence that a prudent  
3895 person acting in a like manner would undertake. The performance  
3896 of the investment duties set forth in this paragraph shall  
3897 comply with the fiduciary standards set forth in the Employee  
3898 Retirement Income Security Act of 1974 at 29 U.S.C. s.  
3899 1104(a)(1)(A)-(C). In case of conflict with other provisions of  
3900 law authorizing investments, the investment and fiduciary  
3901 standards set forth in this subsection shall prevail.

3902 (b) If a member participant or beneficiary of the  
3903 investment plan ~~Public Employee Optional Retirement program~~  
3904 exercises control over the assets in his or her account, as  
3905 determined by reference to regulations of the United States  
3906 Department of Labor under s. 404(c) of the Employee Retirement  
3907 Income Security Act of 1974 and all applicable laws governing  
3908 the operation of the program, a ~~ne~~ program fiduciary is not  
3909 ~~shall be~~ liable for any loss to a member's participant's or  
3910 beneficiary's account which results from the member's such  
3911 ~~participant's~~ or beneficiary's exercise of control.

3912 (c) Subparagraph (8)(b)2. ~~(8)(b)4.~~ and paragraph ~~(15)(b)~~  
3913 incorporate the federal law concept of member participant  
3914 control, established by regulations of the United States  
3915 Department of Labor under s. 404(c) of the Employee Retirement

20112100e2

3916 Income Security Act of 1974 (ERISA). The purpose of this  
3917 paragraph is to assist employers and the state board of  
3918 ~~Administration~~ in maintaining compliance with s. 404(c), while  
3919 avoiding unnecessary costs and eroding member ~~participant~~  
3920 benefits under the investment plan ~~Public Employee Optional~~  
3921 ~~Retirement program~~. Pursuant to 29 C.F.R. s. 2550.404c-  
3922 1(b)(2)(i)(B)(1)(viii), the state board of ~~Administration~~ or its  
3923 designated agents shall deliver to members ~~participants~~ of the  
3924 investment plan ~~Public Employee Optional Retirement program~~ a  
3925 copy of the prospectus most recently provided to the plan, and,  
3926 pursuant to 29 C.F.R. s. 2550.404c-1(b)(2)(i)(B)(2)(ii), shall  
3927 provide such members ~~participants~~ an opportunity to obtain this  
3928 information, except that:

3929 1. The requirement to deliver a prospectus shall be ~~deemed~~  
3930 ~~to be~~ satisfied by delivery of a fund profile or summary profile  
3931 that contains the information that would be included in a  
3932 summary prospectus as described by Rule 498 under the Securities  
3933 Act of 1933, 17 C.F.R. s. 230.498. If ~~When~~ the transaction fees,  
3934 expense information, or other information provided by a mutual  
3935 fund in the prospectus does not reflect terms negotiated by the  
3936 state board of ~~Administration~~ or its designated agents, the  
3937  ~~aforementioned~~ requirement is ~~deemed to be~~ satisfied by delivery  
3938 of a separate document described by Rule 498 substituting  
3939 accurate information; and

3940 2. Delivery shall be ~~deemed to have been~~ effected if  
3941 delivery is through electronic means and the following standards  
3942 are satisfied:

3943 a. Electronically-delivered documents are prepared and  
3944 provided consistent with style, format, and content requirements



20112100e2

3945 applicable to printed documents;

3946 b. Each member ~~participant~~ is provided timely and adequate  
3947 notice of the documents that are to be delivered and their  
3948 significance thereof, and of the member's ~~participant's~~ right to  
3949 obtain a paper copy of such documents free of charge;

3950 c. ~~(I) Members~~ Participants have adequate access to the  
3951 electronic documents, at locations such as their worksites or  
3952 public facilities, and have the ability to convert the documents  
3953 to paper free of charge by the state board ~~of Administration,~~  
3954 and the board or its designated agents take appropriate and  
3955 reasonable measures to ensure that the system for furnishing  
3956 electronic documents results in actual receipt. ~~or~~

3957 ~~(II) Members~~ Participants have provided consent to receive  
3958 information in electronic format, which consent may be revoked;  
3959 and

3960 d. The state board ~~of Administration,~~ or its designated  
3961 agent, actually provides paper copies of the documents free of  
3962 charge, upon request.

3963 (16) DISABILITY BENEFITS.—For any member ~~participant~~ of the  
3964 investment plan ~~optional retirement program~~ who becomes totally  
3965 and permanently disabled, benefits must ~~shall~~ be paid in  
3966 accordance with ~~the provisions of~~ s. 121.591.

3967 (17) SOCIAL SECURITY COVERAGE.—Social security coverage  
3968 shall be provided for all officers and employees who become  
3969 members ~~participants~~ of the investment plan ~~optional program~~.  
3970 Any modification of the present agreement with the Social  
3971 Security Administration, or referendum required under the Social  
3972 Security Act, for the purpose of providing social security  
3973 coverage for any member shall be requested by the state agency

20112100e2

3974 in compliance with the applicable provisions of the Social  
3975 Security Act governing such coverage. However, retroactive  
3976 social security coverage for service before ~~prior to~~ December 1,  
3977 1970, with the employer may ~~shall~~ not be provided for any member  
3978 who was not covered under the agreement as of November 30, 1970.

3979 (18) RETIREE HEALTH INSURANCE SUBSIDY.—All officers and  
3980 employees who are members ~~participants~~ of the investment plan  
3981 are ~~optional program~~ shall be eligible to receive the retiree  
3982 health insurance subsidy, subject to ~~the provisions of~~ s.  
3983 112.363.

3984 (19) MEMBER PARTICIPANT RECORDS.—Personal identifying  
3985 information of a member of participant in the investment plan  
3986 ~~Public Employee Optional Retirement Program~~ contained in Florida  
3987 Retirement System records held by the state board ~~of~~  
3988 ~~Administration~~ or the department ~~of Management Services~~ is  
3989 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
3990 Constitution.

3991 (20) DESIGNATION OF BENEFICIARIES.—

3992 (a) Each member ~~participant~~ may, by electronic means or on  
3993 a form provided for that purpose, signed and filed with the  
3994 third-party administrator, designate a choice of one or more  
3995 persons, named sequentially or jointly, as his or her  
3996 beneficiary for receiving ~~who shall receive~~ the benefits, if  
3997 any, which may be payable pursuant to this chapter in the event  
3998 of the member's ~~participant's~~ death. If no beneficiary is named  
3999 in this manner, or if no beneficiary designated by the member  
4000 ~~participant~~ survives the member ~~participant~~, the beneficiary  
4001 shall be the spouse of the deceased, if living. If the member's  
4002 ~~participant's~~ spouse is not alive at the time of the

20112100e2

4003 beneficiary's ~~his or her~~ death, the beneficiary shall be the  
4004 member's living children ~~of the participant~~. If no children  
4005 survive, the beneficiary shall be the member's participant's  
4006 father or mother, if living; otherwise, the beneficiary shall be  
4007 the member's participant's estate. The beneficiary most recently  
4008 designated by a member participant ~~on a form or letter filed~~  
4009 ~~with the third-party administrator~~ shall be the beneficiary  
4010 entitled to any benefits payable at the time of the member's  
4011 participant's death. However ~~Notwithstanding any other provision~~  
4012 ~~in this subsection to the contrary,~~ if a member for a  
4013 ~~participant who dies before~~ prior to his or her effective date  
4014 of retirement, the spouse at the time of death shall be the  
4015 member's participant's beneficiary unless the member such  
4016 ~~participant~~ designates a different beneficiary ~~as provided in~~  
4017 ~~this subsection~~ subsequent to the member's participant's most  
4018 recent marriage.

4019 (b) If a member participant designates a primary  
4020 beneficiary other than the member's participant's spouse, the  
4021 member's participant's spouse must sign the beneficiary  
4022 designation form to acknowledge the designation. This  
4023 requirement does not apply to the designation of one or more  
4024 contingent beneficiaries to receive benefits remaining upon the  
4025 death of the primary beneficiary or beneficiaries.

4026 (c) Notwithstanding the member's participant's designation  
4027 of benefits to be paid through a trust to a beneficiary that is  
4028 a natural person, ~~and notwithstanding~~ the provisions of the  
4029 trust, benefits must ~~shall~~ be paid directly to the beneficiary  
4030 if the person is no longer a minor or an incapacitated person as  
4031 defined in s. 744.102.

20112100e2

4032 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT OPTION  
4033 PROGRAM PARTICIPANTS.—Notwithstanding any other provision of law  
4034 ~~to the contrary, members participating participants~~ in the  
4035 Deferred Retirement Option Program offered under part I may,  
4036 after conclusion of their participation in the program, elect to  
4037 roll over or authorize a direct trustee-to-trustee transfer to  
4038 an account under the investment plan ~~Public Employee Optional~~  
4039 ~~Retirement Program~~ of their Deferred Retirement Option Program  
4040 proceeds distributed as provided under s. 121.091(13)(c)5. The  
4041 transaction must constitute an “eligible rollover distribution”  
4042 within the meaning of s. 402(c)(4) of the Internal Revenue Code.

4043 (a) The investment plan ~~Public Employee Optional Retirement~~  
4044 ~~Program~~ may accept such amounts for deposit into member  
4045 ~~participant~~ accounts as provided in paragraph (5)(e) ~~(5)(e)~~.

4046 (b) The affected member ~~participant~~ shall direct the  
4047 investment of his or her investment account; however, unless he  
4048 or she becomes a renewed member of the Florida Retirement System  
4049 under s. 121.122 and elects to enroll ~~participate~~ in the  
4050 investment plan ~~Public Employee Optional Retirement program,~~  
4051 employer and employee contributions may not be made to the  
4052 member’s ~~participant’s~~ account as provided under paragraph  
4053 (5)(a).

4054 (c) The state board or the department is not responsible  
4055 for locating those persons who may be eligible to enroll  
4056 ~~participate~~ in the investment plan ~~Public Employee Optional~~  
4057 ~~Retirement Program~~ under this subsection.

4058 (22) CREDIT FOR MILITARY SERVICE.—Creditable service of any  
4059 member of the investment program includes ~~Public Employee~~  
4060 ~~Optional Retirement Program shall include~~ military service in

20112100e2

4061 the Armed Forces of the United States as provided in ~~the~~  
4062 ~~conditions outlined in s. 121.111(1).~~

4063 Section 23. Section 121.4502, Florida Statutes, is amended  
4064 to read:

4065 121.4502 Florida Public Employee Optional Retirement System  
4066 Investment Plan Program Trust Fund.—

4067 (1) The Florida Public Employee Optional Retirement System  
4068 Investment Plan Program Trust Fund is created to hold the assets  
4069 of the Florida Public Employee Optional Retirement System  
4070 Investment Plan Program in trust for the exclusive benefit of  
4071 plan members ~~such program's participants~~ and beneficiaries, and  
4072 for the payment of reasonable administrative expenses of the  
4073 plan program, in accordance with s. 401 of the Internal Revenue  
4074 Code, and shall be administered by the State Board of  
4075 Administration as trustee. Funds shall be credited to the trust  
4076 fund as provided in this part ~~and, to be~~ used for the purposes  
4077 of this part. The trust fund is exempt from the service charges  
4078 imposed by s. 215.20.

4079 (2) The Florida Public Employee Optional Retirement System  
4080 Investment Plan Program Trust Fund is a ~~retirement~~ trust fund of  
4081 the Florida Retirement System that accounts for retirement plan  
4082 assets held by the state in a trustee capacity as a fiduciary  
4083 for individual members ~~participants~~ in the Florida Public  
4084 Employee Optional Retirement System Investment Plan Program and,  
4085 pursuant to s. 19(f), Art. III of the State Constitution, is not  
4086 subject to termination.

4087 (3) A forfeiture account shall be created within the  
4088 Florida Retirement System Investment Plan ~~Public Employee~~  
4089 ~~Optional Retirement Program~~ Trust Fund to hold the assets

20112100e2

4090 derived from the forfeiture of benefits by participating members  
4091 ~~participants~~. Pursuant to a private letter ruling from the  
4092 Internal Revenue Service, the forfeiture account may be used  
4093 only for paying expenses of the Florida Retirement System  
4094 Investment Plan ~~Public Employee Optional Retirement Program~~ and  
4095 reducing future employer contributions to the program.  
4096 Consistent with Rulings 80-155 and 74-340 of the Internal  
4097 Revenue Service, unallocated reserves within the forfeiture  
4098 account must be used as quickly and as prudently as possible  
4099 considering the state board's fiduciary duty. Expected  
4100 withdrawals from the account must endeavor to reduce the account  
4101 to zero each fiscal year.

4102 Section 24. Subsections (1) and (3) of section 121.4503,  
4103 Florida Statutes, are amended to read:

4104 121.4503 Florida Retirement System Contributions Clearing  
4105 Trust Fund.—

4106 (1) The Florida Retirement System Contributions Clearing  
4107 Trust Fund is created as a clearing fund for disbursing employer  
4108 and employee contributions to the component plans of the Florida  
4109 Retirement System and shall be administered by the department ~~of~~  
4110 ~~Management Services~~. Funds shall be credited to the trust fund  
4111 as provided in this chapter and ~~shall be~~ held in trust for the  
4112 contributing employers and employees until ~~such time as~~ the  
4113 assets are transferred by the department to the Florida  
4114 Retirement System Trust Fund, the Florida ~~Public Employee~~  
4115 ~~Optional Retirement~~ System Investment Plan ~~Program~~ Trust Fund,  
4116 or other trust funds as authorized by law, to be used for the  
4117 purposes of this chapter. The trust fund is exempt from the  
4118 service charges imposed by s. 215.20.

20112100e2

4119 (3) The department of ~~Management Services~~ may adopt rules  
4120 governing the receipt and disbursement of amounts received by  
4121 the Florida Retirement System Contributions Clearing Trust Fund  
4122 from employers and employees contributing to the component plans  
4123 of the Florida Retirement System.

4124 Section 25. Section 121.571, Florida Statutes, is amended  
4125 to read:

4126 121.571 Contributions.—Contributions to the Florida Public  
4127 ~~Employee Optional Retirement System Investment Plan Program~~  
4128 shall be made as follows:

4129 (1) CONTRIBUTORY NONCONTRIBUTORY PLAN.—Each employer and  
4130 employee shall submit ~~accomplish the~~ contributions as required  
4131 under ~~by~~ s. 121.71 ~~by a procedure in which no employee's gross~~  
4132 ~~salary shall be reduced.~~

4133 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund the  
4134 retirement and disability benefits provided under this part must  
4135 ~~shall~~ be based on the uniform contribution rates established by  
4136 s. 121.71 and on the membership class or subclass of the  
4137 employee participant. Such contributions must ~~shall~~ be allocated  
4138 as provided in ss. 121.72 and 121.73.

4139 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR  
4140 RETIREE HEALTH INSURANCE SUBSIDY.—Contributions required under  
4141 s. 121.71 ~~are this section shall be~~ in addition to employer and  
4142 member contributions ~~required~~ for social security and the  
4143 Retiree Health Insurance Subsidy Trust Fund as required under  
4144 ~~provided in~~ ss. 112.363, 121.052, 121.055, and 121.071, as  
4145 appropriate.

4146 Section 26. Section 121.591, Florida Statutes, is amended  
4147 to read:

20112100e2

4148           121.591 Payment of benefits ~~payable under the Public~~  
4149 ~~Employee Optional Retirement Program of the Florida Retirement~~  
4150 ~~System.~~—Benefits may not be paid under the Florida Retirement  
4151 System Investment Plan ~~this section~~ unless the member has  
4152 terminated employment as provided in s. 121.021(39)(a) or is  
4153 deceased and a proper application has been filed as in the  
4154 manner prescribed by the state board or the department. Before  
4155 termination of employment, benefits are not payable under the  
4156 investment plan for employee hardships, unforeseeable  
4157 emergencies, loans, medical expenses, educational expenses,  
4158 purchase of a principal residence, payments necessary to prevent  
4159 eviction or foreclosure on an employee's principal residence, or  
4160 any other reason prior to termination from all employment  
4161 relationships with participating employers. The state board or  
4162 department, as appropriate, may cancel an application for  
4163 retirement benefits if when the member or beneficiary fails to  
4164 timely provide the information and documents required by this  
4165 chapter and the rules of the state board and department. In  
4166 accordance with their respective responsibilities ~~as provided~~  
4167 ~~herein,~~ the state board ~~of Administration~~ and the department ~~of~~  
4168 ~~Management Services~~ shall adopt rules establishing procedures  
4169 for application for retirement benefits and for the cancellation  
4170 of such application if when the required information or  
4171 documents are not received. The state board ~~of Administration~~  
4172 and the department ~~of Management Services,~~ as appropriate, are  
4173 authorized to cash out a de minimis account of not more than  
4174 \$5,000 of a member participant who has been terminated from  
4175 Florida Retirement System covered employment for a minimum of 6  
4176 calendar months. ~~A de minimis account is an account containing~~



20112100e2

4177 ~~employer contributions and accumulated earnings of not more than~~  
4178 ~~\$5,000 made under the provisions of this chapter.~~ Such cash-out  
4179 must ~~either~~ be a complete lump-sum liquidation of the account  
4180 balance, subject to the provisions of the Internal Revenue Code,  
4181 or a lump-sum direct rollover distribution paid directly to the  
4182 custodian of an eligible retirement plan, as defined by the  
4183 Internal Revenue Code, on behalf of the member participant. Any  
4184 nonvested accumulations, including amounts transferred to the  
4185 suspense account of the Florida Retirement System Investment  
4186 Plan Trust Fund, are forfeited upon payment of any vested  
4187 benefit to a member or beneficiary, except for de minimis  
4188 distributions or minimum required distributions as provided  
4189 under this section. If any financial instrument issued for the  
4190 payment of retirement benefits under this section is not  
4191 presented for payment within 180 days after the last day of the  
4192 month in which it was originally issued, the third-party  
4193 administrator or other duly authorized agent of the state board  
4194 ~~of Administration~~ shall cancel the instrument and credit the  
4195 amount of the instrument to the suspense account of the Florida  
4196 ~~Public Employee Optional Retirement~~ System Investment Plan  
4197 ~~Program~~ Trust Fund authorized under s. 121.4501(6). Any ~~such~~  
4198 amounts transferred to the suspense account are payable upon a  
4199 proper application, not to include earnings thereon, as provided  
4200 in this section, within 10 years after the last day of the month  
4201 in which the instrument was originally issued, after which time  
4202 such amounts and any earnings attributable to employer  
4203 contributions are ~~thereon shall be~~ forfeited. Any ~~such~~ forfeited  
4204 amounts are assets of the ~~Public Employee Optional Retirement~~  
4205 ~~Program~~ trust fund and are not subject to the provisions of

20112100e2

4206 chapter 717.

4207 (1) NORMAL BENEFITS.—Under the Florida ~~Public Employee~~  
4208 ~~Optional Retirement System Investment Plan Program~~:

4209 (a) Benefits in the form of vested accumulations as  
4210 described in s. 121.4501(6) are payable under this subsection in  
4211 accordance with the following terms and conditions:

4212 1. ~~To the extent vested,~~ Benefits are payable only to a  
4213 member, alternate payee of a qualified domestic relations order,  
4214 or a beneficiary participant.

4215 2. Benefits shall be paid by the third-party administrator  
4216 or designated approved providers in accordance with the law, the  
4217 contracts, and any applicable board rule or policy.

4218 3. ~~To receive benefits,~~ The member participant must be  
4219 terminated from all employment with all Florida Retirement  
4220 System employers, as provided in s. 121.021(39).

4221 4. Benefit payments may not be made until the member  
4222 ~~participant~~ has been terminated for 3 calendar months, except  
4223 that the state board may authorize by rule for the distribution  
4224 of up to 10 percent of the member's participant's account after  
4225 being terminated for 1 calendar month if the member participant  
4226 has reached the normal retirement date as defined in s. 121.021  
4227 ~~of the defined benefit plan.~~

4228 5. If a member or former member of the Florida Retirement  
4229 System receives an invalid distribution ~~from the Public Employee~~  
4230 ~~Optional Retirement Program Trust Fund~~, such person must repay  
4231 the full amount ~~invalid distribution to the trust fund~~ within 90  
4232 days after receipt of final notification by the state board or  
4233 the third-party administrator that the distribution was invalid,  
4234 or, in lieu of repayment, must terminate employment from all

20112100e2

4235 participating employers. If such person fails to repay the full  
4236 invalid distribution within 90 days after receipt of final  
4237 notification, the person may be deemed retired from the  
4238 investment plan ~~optional retirement program~~ by the state board,  
4239 ~~as provided pursuant to s. 121.4501(2)(k)~~, and is subject to s.  
4240 121.122. If such person is deemed retired ~~by the state board~~,  
4241 any joint and several liability set out in s. 121.091(9)(d)2. is  
4242 ~~becomes~~ null and void, and the state board, the department, or  
4243 the employing agency is not liable for gains on payroll  
4244 contributions that have not been deposited to the person's  
4245 account in the investment plan ~~retirement program~~, pending  
4246 resolution of the invalid distribution. The member or former  
4247 member who has been deemed retired or who has been determined by  
4248 the state board to have taken an invalid distribution may appeal  
4249 the agency decision through the complaint process as provided  
4250 under s. 121.4501(9)(g)3. As used in this subparagraph, the term  
4251 "invalid distribution" means any distribution from an account in  
4252 the investment plan ~~optional retirement program~~ which is taken  
4253 in violation of this section, s. 121.091(9), or s. 121.4501.

4254 (b) If a member ~~participant~~ elects to receive his or her  
4255 benefits upon termination of employment as defined in s.  
4256 121.021, the member ~~participant~~ must submit a written  
4257 application or an application by electronic means to the third-  
4258 party administrator indicating his or her preferred distribution  
4259 date and selecting an authorized method of distribution as  
4260 provided in paragraph (c). The member ~~participant~~ may defer  
4261 receipt of benefits until he or she chooses to make such  
4262 application, subject to federal requirements.

4263 (c) Upon receipt by the third-party administrator of a

20112100e2

4264 properly executed application for distribution of benefits, the  
4265 total accumulated benefit ~~is shall be~~ payable to the member pro  
4266 rata across all Florida Retirement System benefit sources  
4267 ~~participant~~, as:

4268 1. A lump-sum or partial distribution to the member  
4269 ~~participant~~;

4270 2. A lump-sum direct rollover distribution whereby all  
4271 accrued benefits, plus interest and investment earnings, are  
4272 paid from the member's participant's account directly to the  
4273 custodian of an eligible retirement plan, as defined in s.  
4274 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
4275 member participant; or

4276 3. Periodic distributions, as authorized by the state  
4277 board.

4278 (d) The distribution payment method selected by the plan  
4279 member or beneficiary, and the retirement of the member or  
4280 beneficiary, is final and irrevocable at the time a benefit  
4281 distribution payment is cashed, deposited, or transferred to  
4282 another financial institution. Any additional service that  
4283 remains unclaimed at retirement may not be claimed or purchased,  
4284 and the type of retirement may not be changed, except that if a  
4285 member recovers from a disability, the member may subsequently  
4286 request normal service benefits under subsection (2).

4287 (e) A member may not receive a distribution of employee  
4288 contributions if a pending or approved qualified domestic  
4289 relations order is filed against the member's investment plan  
4290 account.

4291 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided under  
4292 this subsection are payable in lieu of the benefits that ~~which~~

20112100e2

4293 would otherwise be payable under the provisions of subsection  
4294 (1). Such benefits must ~~shall~~ be funded ~~entirely~~ from employer  
4295 contributions ~~made under s. 121.571~~, transferred employee  
4296 contributions and participant funds accumulated pursuant to  
4297 paragraph (a), and interest and earnings thereon. ~~Pursuant~~  
4298 ~~thereto:~~

4299 (a) *Transfer of funds.*—To qualify for ~~to receive~~ monthly  
4300 disability benefits under this subsection:

4301 1. All moneys accumulated in a member's account ~~the~~  
4302 ~~participant's Public Employee Optional Retirement Program~~  
4303 ~~accounts~~, including vested and nonvested accumulations as  
4304 described in s. 121.4501(6), must ~~shall~~ be transferred from such  
4305 individual accounts to the division ~~of Retirement~~ for deposit in  
4306 the disability account of the Florida Retirement System Trust  
4307 Fund. Such moneys must ~~shall~~ be ~~separately~~ accounted for  
4308 separately. Earnings must ~~shall~~ be credited on an annual basis  
4309 for amounts held in the disability accounts ~~of the Florida~~  
4310 ~~Retirement System Trust Fund~~ based on actual earnings of the  
4311 ~~Florida Retirement System~~ trust fund.

4312 2. If the member ~~participant~~ has retained retirement credit  
4313 ~~he or she had~~ earned under the pension plan ~~defined benefit~~  
4314 ~~program of the Florida Retirement System~~ as provided in s.  
4315 121.4501(3) ~~s. 121.4501(3)(b)~~, a sum representing the actuarial  
4316 present value of such credit within the Florida Retirement  
4317 System Trust Fund shall be reassigned by the division ~~of~~  
4318 ~~Retirement~~ from the pension plan ~~defined benefit program~~ to the  
4319 disability program as implemented under this subsection and  
4320 shall be deposited in the disability account of the ~~Florida~~  
4321 ~~Retirement System~~ trust fund. Such moneys must ~~shall~~ be

20112100e2

4322 ~~separately~~ accounted for separately.

4323 (b) *Disability retirement; entitlement.*—

4324 1. A member participant of the investment plan ~~Public~~  
 4325 ~~Employee Optional Retirement program~~ who becomes totally and  
 4326 permanently disabled, as defined in paragraph (d) ~~s.~~  
 4327 ~~121.091(4)(b)~~, after completing 8 years of creditable service,  
 4328 or a member participant who becomes totally and permanently  
 4329 disabled in the line of duty regardless of ~~his or her~~ length of  
 4330 service, is ~~shall be~~ entitled to a monthly disability benefit ~~as~~  
 4331 ~~provided herein~~.

4332 2. In order for service to apply toward the 8 years of  
 4333 creditable service required ~~to vest~~ for regular disability  
 4334 benefits, or toward the creditable service used in calculating a  
 4335 service-based benefit as provided ~~for~~ under paragraph (g), the  
 4336 service must be creditable service as described below:

4337 a. The member's participant's ~~period of service~~ under the  
 4338 investment plan ~~shall Public Employee Optional Retirement~~  
 4339 ~~program will~~ be considered creditable service, except as  
 4340 provided in subparagraph d.

4341 b. If the member participant has elected to retain credit  
 4342 for ~~his or her~~ service under the pension plan ~~defined benefit~~  
 4343 ~~program of the Florida Retirement System~~ as provided under s.  
 4344 121.4501(3) ~~s. 121.4501(3)(b)~~, all such service shall ~~will~~ be  
 4345 considered creditable service.

4346 c. If the member elects ~~participant has elected~~ to transfer  
 4347 to his or her member participant accounts a sum representing the  
 4348 present value of his or her retirement credit under the pension  
 4349 plan ~~defined benefit program~~ as provided under s. 121.4501(3) ~~s.~~  
 4350 ~~121.4501(3)(e)~~, the period of service under the pension plan

20112100e2

4351 ~~defined benefit program~~ represented in the present value amounts  
4352 transferred shall ~~will~~ be considered creditable service ~~for~~  
4353 ~~purposes of vesting for disability benefits~~, except as provided  
4354 in subparagraph d.

4355 d. If a member ~~Whenever a participant~~ has terminated  
4356 employment and has taken distribution of his or her funds as  
4357 provided in subsection (1), all creditable service represented  
4358 by such distributed funds is forfeited for purposes of this  
4359 subsection.

4360 (c) *Disability retirement effective date.*—The effective  
4361 retirement date for a member ~~participant~~ who applies and is  
4362 approved for disability retirement shall be established as  
4363 provided under s. 121.091(4) (a)2. and 3.

4364 (d) *Total and permanent disability.*—A member is ~~participant~~  
4365 ~~shall be~~ considered totally and permanently disabled if, in the  
4366 opinion of the division, he or she is prevented, by reason of a  
4367 medically determinable physical or mental impairment, from  
4368 rendering useful and efficient service as an officer or  
4369 employee.

4370 (e) *Proof of disability.*—~~The division,~~ Before approving  
4371 payment of any disability retirement benefit, the division shall  
4372 require proof that the member ~~participant~~ is totally and  
4373 permanently disabled ~~in the same manner~~ as provided ~~for members~~  
4374 ~~of the defined benefit program of the Florida Retirement System~~  
4375 under s. 121.091(4) (c).

4376 (f) *Disability retirement benefit.*—Upon the disability  
4377 retirement of a member ~~participant~~ under this subsection, the  
4378 member ~~participant~~ shall receive a monthly benefit that begins  
4379 accruing ~~shall begin to accrue~~ on the first day of the month of

20112100e2

4380 disability retirement, as approved by the division, and is ~~shall~~  
4381 ~~be~~ payable on the last day of that month and each month  
4382 thereafter during his or her lifetime and continued disability.  
4383 All disability benefits must ~~payable to such member shall~~ be  
4384 paid out of the disability account of the Florida Retirement  
4385 System Trust Fund established under this subsection.

4386 (g) *Computation of disability retirement benefit.*—The  
4387 amount of each monthly payment must ~~shall~~ be calculated ~~in the~~  
4388 ~~same manner~~ as provided for members of the defined benefit  
4389 ~~program of the Florida Retirement System~~ under s. 121.091(4)(f).  
4390 ~~For such purpose,~~ Creditable service under both the pension plan  
4391 ~~defined benefit program~~ and the investment plan ~~Public Employee~~  
4392 ~~Optional Retirement Program of the Florida Retirement System~~  
4393 shall be applicable as provided under paragraph (b).

4394 (h) *Reapplication.*—A member ~~participant~~ whose initial  
4395 application for disability retirement is ~~has been~~ denied may  
4396 reapply for disability benefits in the same manner, and under  
4397 the same conditions, as provided for members of the pension plan  
4398 ~~defined benefit program of the Florida Retirement System~~ under  
4399 s. 121.091(4)(g).

4400 (i) *Membership.*—Upon approval of a member's ~~an~~ application  
4401 for disability benefits ~~under this subsection,~~ the applicant  
4402 shall be transferred to the pension plan ~~defined benefit program~~  
4403 ~~of the Florida Retirement System,~~ effective upon his or her  
4404 disability retirement effective date.

4405 (j) *Option to cancel.*—A member ~~Any participant~~ whose  
4406 application for disability benefits is approved may cancel the  
4407 ~~his or her application if for disability benefits, provided that~~  
4408 the cancellation request is received by the division before a



20112100e2

4409 disability retirement warrant has been deposited, cashed, or  
4410 received by direct deposit. Upon ~~such~~ cancellation:

4411 1. The member's participant's transfer to the pension plan  
4412 ~~defined benefit program~~ under paragraph (i) shall be nullified;

4413 2. The member participant shall be retroactively reinstated  
4414 in the investment plan ~~Public Employee Optional Retirement~~  
4415 ~~program~~ without hiatus;

4416 3. All funds transferred to the Florida Retirement System  
4417 Trust Fund under paragraph (a) must ~~shall~~ be returned to the  
4418 member participant accounts from which the ~~such~~ funds were  
4419 drawn; and

4420 4. The member participant may elect to receive the benefit  
4421 payable under ~~the provisions of~~ subsection (1) in lieu of  
4422 disability benefits ~~as provided under this subsection.~~

4423 (k) *Recovery from disability.*—

4424 1. The division may require periodic reexaminations at the  
4425 expense of the disability program account of the Florida  
4426 Retirement System Trust Fund. Except as ~~otherwise~~ provided in  
4427 subparagraph 2., ~~the requirements, procedures, and restrictions~~  
4428 ~~relating to the conduct and review of such reexaminations,~~  
4429 ~~discontinuation or termination of benefits, reentry into~~  
4430 ~~employment, disability retirement after reentry into covered~~  
4431 ~~employment, and all other matters relating to recovery from~~  
4432 disability shall be ~~the same as~~ provided ~~are set forth~~ under s.  
4433 121.091(4)(h).

4434 2. Upon recovery from disability, the ~~any~~ recipient of  
4435 disability retirement benefits under this subsection shall be  
4436 transferred back to the investment plan ~~a compulsory member of~~  
4437 ~~the Public Employee Optional Retirement Program of the Florida~~

20112100e2

4438 ~~Retirement System.~~ The net difference between the recipient's  
4439 original account balance transferred to the Florida Retirement  
4440 System Trust Fund, including earnings, ~~under paragraph (a)~~ and  
4441 total disability benefits paid to such recipient, if any, shall  
4442 be determined as provided in sub-subparagraph a.

4443 a. An amount equal to the total benefits paid shall be  
4444 subtracted from that portion of the transferred account balance  
4445 consisting of vested accumulations as described under s.  
4446 121.4501(6), if any, and an amount equal to the remainder of  
4447 benefit amounts paid, if any, shall ~~then~~ be subtracted from any  
4448 remaining ~~portion consisting of~~ nonvested accumulations ~~as~~  
4449 ~~described under s. 121.4501(6).~~

4450 b. Amounts subtracted under sub-subparagraph a. must ~~shall~~  
4451 be retained within the disability account of the Florida  
4452 Retirement System Trust Fund. Any remaining account balance  
4453 shall be transferred to the third-party administrator for  
4454 disposition as provided under sub-subparagraph c. or sub-  
4455 subparagraph d., as appropriate.

4456 c. If the recipient returns to covered employment,  
4457 transferred amounts must ~~shall~~ be deposited in individual  
4458 accounts under the investment plan ~~Public Employee Optional~~  
4459 ~~Retirement program~~, as directed by the member participant.  
4460 Vested and nonvested amounts shall be separately accounted for  
4461 as provided in s. 121.4501(6).

4462 d. If the recipient fails to return to covered employment  
4463 upon recovery from disability:

4464 (I) Any remaining vested amount must ~~shall~~ be deposited in  
4465 individual accounts under the investment plan ~~Public Employee~~  
4466 ~~Optional Retirement program~~, as directed by the member

20112100e2

4467 participant, and is ~~shall be~~ payable as provided in subsection  
4468 (1).

4469 (II) Any remaining nonvested amount must ~~shall~~ be held in a  
4470 suspense account and is ~~shall be~~ forfeitable after 5 years as  
4471 provided in s. 121.4501(6).

4472 3. If present value was reassigned from the pension plan  
4473 ~~defined benefit program~~ to the disability program ~~of the Florida~~  
4474 ~~Retirement System~~ as provided under subparagraph (a)2., the full  
4475 present value amount must ~~shall~~ be returned to the pension plan  
4476 ~~defined benefit account~~ within the Florida Retirement System  
4477 Trust Fund and the recipient's ~~affected individual's~~ associated  
4478 retirement credit under the pension plan ~~defined benefit~~  
4479 ~~program~~ shall be reinstated in full. Any benefit based upon such  
4480 credit must ~~shall~~ be calculated as provided in s.  
4481 121.091(4)(h)1.

4482 (1) *Nonadmissible causes of disability.*—A member is  
4483 ~~participant~~ shall not be entitled to ~~receive~~ a disability  
4484 retirement benefit if the disability results from any injury or  
4485 disease ~~sustained or inflicted~~ as described in s. 121.091(4)(i).

4486 (m) *Disability retirement of justice or judge by order of*  
4487 *Supreme Court.*—

4488 1. If a member ~~participant~~ is a justice of the Supreme  
4489 Court, judge of a district court of appeal, circuit judge, or  
4490 judge of a county court who has served for 6 years or more as an  
4491 elected constitutional judicial officer, including service as a  
4492 judicial officer in any court abolished pursuant to Art. V of  
4493 the State Constitution, and who is retired for disability ~~by~~  
4494 ~~order of the Supreme Court upon recommendation of the Judicial~~  
4495 ~~Qualifications Commission~~ pursuant to s. 12, ~~the provisions of~~

20112100e2

4496 Art. V of the State Constitution, the member's ~~participant's~~  
4497 Option 1 monthly disability benefit amount as provided in s.  
4498 121.091(6)(a)1. shall be two-thirds of his or her monthly  
4499 compensation as of the member's ~~participant's~~ disability  
4500 retirement date. The member ~~Such a participant~~ may alternatively  
4501 elect to receive an actuarially adjusted disability retirement  
4502 benefit under any other option as provided in s. 121.091(6)(a),  
4503 or ~~to~~ receive the normal benefit payable under ~~the Public~~  
4504 ~~Employee Optional Retirement Program as set forth in~~ subsection  
4505 (1).

4506 2. If any justice or judge who is a member ~~participant~~ of  
4507 the investment plan ~~Public Employee Optional Retirement program~~  
4508 ~~of the Florida Retirement System~~ is retired for disability ~~by~~  
4509 ~~order of the Supreme Court upon recommendation of the Judicial~~  
4510 ~~Qualifications Commission pursuant to s. 12,~~ the provisions of  
4511 Art. V of the State Constitution, and elects to receive a  
4512 monthly disability benefit under ~~the provisions of~~ this  
4513 paragraph:

4514 a. Any present value amount that was transferred to his or  
4515 her plan ~~program~~ account and all employer and employee  
4516 contributions made to such account on his or her behalf, plus  
4517 interest and earnings thereon, must ~~shall~~ be transferred to and  
4518 deposited in the disability account of the Florida Retirement  
4519 System Trust Fund; and

4520 b. The monthly disability benefits payable under this  
4521 paragraph for any affected justice or judge retired from the  
4522 Florida Retirement System pursuant to Art. V of the State  
4523 Constitution shall be paid from the disability account of the  
4524 Florida Retirement System Trust Fund.

20112100e2

4525 (n) *Death of retiree or beneficiary.*—Upon the death of a  
4526 disabled retiree or beneficiary of the retiree ~~thereof~~ who is  
4527 receiving monthly disability benefits under this subsection, the  
4528 monthly benefits shall be paid through the last day of the month  
4529 of death and shall terminate, or be adjusted, if applicable, as  
4530 of that date in accordance with the optional form of benefit  
4531 selected at the time of retirement. The department ~~of Management~~  
4532 ~~Services~~ may adopt rules necessary to administer this paragraph.

4533 (3) DEATH BENEFITS.—Under the Florida Public Employee  
4534 ~~Optional Retirement System Investment Plan Program~~:

4535 (a) Survivor benefits are ~~shall be~~ payable in accordance  
4536 with the following terms and conditions:

4537 1. ~~To the extent vested,~~ Benefits are ~~shall be~~ payable only  
4538 to a member's ~~participant's~~ beneficiary or beneficiaries as  
4539 designated by the member ~~participant~~ as provided in s.  
4540 121.4501(20).

4541 2. Benefits shall be paid by the third-party administrator  
4542 or designated approved providers in accordance with the law, the  
4543 contracts, and any applicable state board rule or policy.

4544 3. To receive benefits ~~under this subsection,~~ the member  
4545 ~~participant~~ must be deceased.

4546 (b) Except as provided in paragraph (d), if the employment  
4547 of a member is terminated by reason of his or her ~~In the event~~  
4548 ~~of a participant's~~ death:

4549 1. Before being vested, only the member's accumulated  
4550 contributions are payable to his or her designated beneficiary.

4551 2. After being vested, all vested accumulations as  
4552 described in s. 121.4501(6), less withholding taxes remitted to  
4553 the Internal Revenue Service, shall be distributed, as provided

20112100e2

4554 in paragraph (c) or as described in s. 121.4501(20), as if the  
4555 member ~~participant~~ retired on the date of death. No other death  
4556 benefits are ~~shall be~~ available for survivors of members  
4557 ~~participants~~ under the investment plan ~~Public Employee Optional~~  
4558 ~~Retirement Program~~, except for ~~such~~ benefits, or coverage for  
4559 ~~such~~ benefits, as are otherwise provided by law or ~~are~~  
4560 separately provided ~~afforded~~ by the employer, at the employer's  
4561 discretion.

4562 (c) Upon receipt by the third-party administrator of a  
4563 properly executed application for distribution of benefits under  
4564 paragraph (b), the total accumulated benefit ~~is~~ ~~shall be~~ payable  
4565 by the third-party administrator to the member's ~~participant's~~  
4566 surviving beneficiary or beneficiaries, as:

4567 1. A lump-sum distribution payable to the beneficiary or  
4568 beneficiaries, or to the deceased member's ~~participant's~~ estate;

4569 2. An eligible rollover distribution on behalf of the  
4570 surviving spouse of a deceased member ~~participant~~, whereby all  
4571 accrued benefits, plus interest and investment earnings, are  
4572 paid from the deceased member's ~~participant's~~ account directly  
4573 to the custodian of an eligible retirement plan, as described in  
4574 s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
4575 surviving spouse; or

4576 3. A partial lump-sum payment whereby a portion of the  
4577 accrued benefit is paid to the deceased member's ~~participant's~~  
4578 surviving spouse or other designated beneficiaries, less  
4579 withholding taxes remitted to the Internal Revenue Service, and  
4580 the remaining amount is transferred directly to the custodian of  
4581 an eligible retirement plan, as described in s. 402(c)(8)(B) of  
4582 the Internal Revenue Code, on behalf of the surviving spouse.

20112100e2

4583 The proportions must be specified by the member ~~participant~~ or  
4584 the surviving beneficiary.

4585

4586 This paragraph does not abrogate other applicable provisions of  
4587 state or federal law providing for payment of death benefits.

4588 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to  
4589 any person under the Florida Public Employee Optional Retirement  
4590 System Investment Plan Program, and any contributions  
4591 accumulated under such plan program, are not subject to  
4592 assignment, execution, attachment, or any legal process, except  
4593 for qualified domestic relations orders by a court of competent  
4594 jurisdiction, income deduction orders as provided in s. 61.1301,  
4595 and federal income tax levies.

4596 Section 27. Section 121.5911, Florida Statutes, is amended  
4597 to read:

4598 121.5911 Disability retirement program; qualified status;  
4599 rulemaking authority.—It is the intent of the Legislature that  
4600 the disability retirement program for members ~~participants~~ of  
4601 the Florida Public Employee Optional Retirement System  
4602 Investment Plan Program ~~as created in this act~~ must meet all  
4603 applicable requirements of federal law for a qualified plan. The  
4604 department of ~~Management Services~~ shall seek a private letter  
4605 ruling from the Internal Revenue Service on the disability  
4606 retirement program ~~for participants of the Public Employee~~  
4607 ~~Optional Retirement Program~~. Consistent with the private letter  
4608 ruling, the department of ~~Management Services~~ shall adopt any  
4609 necessary rules necessary ~~required~~ to maintain the qualified  
4610 status of the disability retirement program and the Florida  
4611 Retirement System's pension System ~~defined benefit~~ plan.

20112100e2

4612 Section 28. Subsection (1) of section 121.70, Florida  
4613 Statutes, is amended to read:

4614 121.70 Legislative purpose and intent.—

4615 (1) This part provides for a uniform system for funding  
4616 benefits provided under the Florida Retirement System defined  
4617 benefit program established under part I of this chapter,  
4618 ~~(referred to in this part as the pension plan, defined benefit~~  
4619 ~~program) and under the Florida Public Employee Optional~~  
4620 ~~Retirement System Investment Plan Program established under part~~  
4621 ~~II of this chapter, (referred to in this part as the investment~~  
4622 ~~plan optional retirement program). The Legislature recognizes~~  
4623 and declares that the Florida Retirement System is a single  
4624 retirement system, consisting of two retirement plans and other  
4625 nonintegrated programs. Employers and employees participating in  
4626 the Florida Retirement System collectively shall be responsible  
4627 for making contributions to support the benefits provided  
4628 ~~afforded~~ under both programs plans. ~~The As provided in this~~  
4629 ~~part,~~ employers and employees ~~participating in the Florida~~  
4630 ~~Retirement System~~ shall make contributions based upon uniform  
4631 contribution rates determined as a percentage of the total  
4632 payroll for each class or subclass of Florida Retirement System  
4633 membership, irrespective of which retirement program the plan  
4634 individual employee is enrolled in ~~employees may elect~~. This  
4635 shall be known as a uniform or blended contribution rate system.

4636 Section 29. Subsections (1) and (2) of section 121.71,  
4637 Florida Statutes, are amended, present subsections (3) and (4)  
4638 of that section are renumbered as subsections (5) and (8),  
4639 respectively, and new subsections (3), (4), (6), and (7) are  
4640 added to that section, to read:



20112100e2

4641 121.71 Uniform rates; process; calculations; levy.—

4642 (1) In conducting the system actuarial study required under  
4643 s. 121.031, the actuary shall follow all requirements specified  
4644 ~~thereunder~~ to determine, by Florida Retirement System employee  
4645 membership class, the dollar contribution amounts necessary for  
4646 the next forthcoming fiscal year for the pension plan defined  
4647 ~~benefit program~~. In addition, the actuary shall determine, by  
4648 Florida Retirement System membership class, based on an estimate  
4649 for the forthcoming fiscal year of the gross compensation of  
4650 employees participating in the investment plan optional  
4651 ~~retirement program~~, the dollar contribution amounts necessary to  
4652 make the allocations required under ss. 121.72 and 121.73. For  
4653 each employee membership class and subclass, the actuarial study  
4654 must shall establish a uniform rate necessary to fund the  
4655 benefit obligations under both Florida Retirement System  
4656 retirement plans by dividing the sum of total dollars required  
4657 by the estimated gross compensation of members in both plans.

4658 (2) Based on the uniform rates set forth in subsections  
4659 ~~subsection~~ (3), (4), and (5), employers and employees shall make  
4660 monthly contributions to the division as required under s.  
4661 121.061(1) of Retirement, which shall initially deposit the  
4662 funds into the Florida Retirement System Contributions Clearing  
4663 Trust Fund. A change in a contribution rate is effective on the  
4664 first day of the month for which a full month's ~~employer~~  
4665 contribution may be made on or after the beginning date of the  
4666 change. Beginning July 1, 2011, each employee, except those  
4667 participating in the Deferred Retirement Option Program, shall  
4668 contribute the contributions required in subsection (3) to the  
4669 plan. The employer shall deduct the contribution from the

20112100e2

4670 employee's monthly salary and submit it to the division. The  
4671 contributions shall be reported as employer-paid employee  
4672 contributions, and shall be credited to the account of the  
4673 employee. The contributions shall be deducted from the  
4674 employee's salary before the computation of applicable federal  
4675 taxes and treated as employer contributions under 26 U.S.C.  
4676 414(h) (2). Although designated as employee contributions, the  
4677 employer specifies that the contributions are being paid by the  
4678 employer in lieu of contributions by the employee. The employee  
4679 does not have the option of choosing to receive the contributed  
4680 amounts directly instead of having them paid to the plan. Such  
4681 contributions are mandatory and each employee is deemed to have  
4682 consented to the payroll deductions. Payment of an employee's  
4683 salary or wages, less the contribution, is a full and complete  
4684 discharge and satisfaction of all claims and demands for the  
4685 service rendered by employees during the period covered by the  
4686 payment, except for claims to benefits to which they may be  
4687 entitled under this chapter.

4688 (3) Effective July 1, 2011, the required employee  
4689 retirement contribution rates for all members of the Florida  
4690 Retirement System shall be 2 percent for gross compensation up  
4691 to and including \$25,000, 4 percent for gross compensation  
4692 greater than \$25,000 and up to and including \$50,000, and 6  
4693 percent for gross compensation greater than \$50,000. This  
4694 subsection does not apply to members participating in the  
4695 Deferred Option Retirement Program.

4696 (4) Effective July 1, 2011, the required employee  
4697 retirement contribution rate for those members of the Elected  
4698 Officers' Class who are members of the Florida Legislature and

20112100e2

4699 all Statewide Elected Officials (for both the pension and  
 4700 investment plans) shall be 3 percent for gross compensation up  
 4701 to and including \$25,000, 5 percent for gross compensation  
 4702 greater than \$25,000 and up to and including \$50,000, and 7  
 4703 percent for gross compensation greater than \$50,000.

4704 (5)~~(3)~~ Required employer retirement contribution rates for  
 4705 each membership class and subclass of the Florida Retirement  
 4706 System for both retirement plans are as follows:  
 4707

Membership Class	Percentage of Gross Compensation, Effective July 1, <u>2011</u> 2009	<del>Percentage of</del> <del>Gross</del> <del>Compensation,</del> <del>Effective</del> <del>July 1, 2010</del>
Regular Class	<u>5.09%</u> <del>8.69%</del>	<del>9.63%</del>
Special Risk Class	<u>13.80%</u> <del>19.76%</del>	<del>22.11%</del>
Special Risk Administrative Support Class	<u>6.67%</u> <del>11.39%</del>	<del>12.10%</del>
Elected Officers' Class— Legislators, Governor, Lt. Governor,	<u>9.46%</u> <del>13.32%</del>	<del>15.20%</del>



20112100e2

4725 Special Risk  
Administrative  
Support Class 0.00%

4726 Elected Officers'  
Class-  
Legislators, Governor,  
Lt. Governor,  
Cabinet Officers,  
State Attorneys,  
Public Defenders 0.00%

4727 Elected Officers'  
Class-  
Justices, Judges 0.00%

4728 Elected Officers'  
Class-  
County Elected  
Officers 0.00%

4729 Senior Management Class 0.00%

4730 DROP 0.00%

4731  
4732 (7) If a member is reported under an incorrect membership  
4733 class and the amount of contributions reported and remitted are  
4734 less than the amount required, the employer shall owe the

20112100e2

4735 difference plus the delinquent fee of 1 percent for each  
 4736 calendar month or part thereof that the contributions should  
 4737 have been paid. This delinquent assessment may not be waived. If  
 4738 the contributions reported and remitted are more than the amount  
 4739 required, the employer shall receive a credit to be applied  
 4740 against future contributions owed.

4741 (8)-(4) The state actuary shall recognize and use an  
 4742 appropriate level of available excess assets of the Florida  
 4743 Retirement System Trust Fund to offset the difference between  
 4744 the normal costs of the Florida Retirement System and the  
 4745 statutorily prescribed contribution rates.

4746 Section 30. Section 121.72, Florida Statutes, is amended to  
 4747 read:

4748 121.72 Allocations to investment plan member ~~optional~~  
 4749 ~~retirement program participant~~ accounts; percentage amounts.—

4750 (1) The allocations established in subsection (4) shall  
 4751 fund retirement benefits under the investment plan under part II  
 4752 of this chapter ~~optional retirement program~~ and shall be  
 4753 transferred monthly by the division ~~of Retirement~~ from the  
 4754 Florida Retirement System Contributions Clearing Trust Fund to  
 4755 the third-party administrator for deposit in each participating  
 4756 employee's individual account based on the membership class of  
 4757 the employee ~~participant~~.

4758 (2) The allocations are stated as a percentage of each  
 4759 investment plan member's ~~optional retirement program~~  
 4760 ~~participant's~~ gross compensation for the calendar month. A  
 4761 change in a contribution percentage is effective the first day  
 4762 of the month for which retirement contributions ~~a full month's~~  
 4763 ~~employer contribution~~ may be made on or after the beginning date

20112100e2

4764 of the change. Contribution percentages may be modified by  
 4765 general law.

4766 (3) Employer and employee ~~participant~~ contributions to  
 4767 member's ~~participant~~ accounts shall be accounted for separately.  
 4768 ~~Participant contributions may be made only if expressly~~  
 4769 ~~authorized by law.~~ Interest and investment earnings on  
 4770 contributions shall accrue on a tax-deferred basis until  
 4771 proceeds are distributed.

4772 (4) Effective July 1, 2011 ~~July 1, 2002~~, allocations from  
 4773 the Florida Retirement System Contributions Clearing Trust Fund  
 4774 to investment plan member ~~optional retirement program~~  
 4775 ~~participant~~ accounts, including employee contributions required  
 4776 under s. 121.71(3), are ~~shall be~~ as follows:

Membership Class	Percentage of Gross Compensation
4778 Regular Class	9.00%
4779 Special Risk Class	20.00%
4780 Special Risk Administrative Support Class	11.35%
4781 Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.40%

4782

20112100e2

Elected Officers' Class—  
Justices, Judges 18.90%

4783

Elected Officers' Class—  
County Elected Officers 16.20%

4784

Senior Management Service Class 10.95%

4785

4786 Section 31. Section 121.73, Florida Statutes, is amended to  
4787 read:

4788 121.73 Allocations for member ~~optional retirement program~~  
4789 ~~participant~~ disability coverage; percentage amounts.—

4790 (1) The allocations established in subsection (3) shall be  
4791 used to provide disability coverage for members of the  
4792 investment plan participants ~~in the optional retirement program~~  
4793 and shall be transferred monthly by the division ~~of Retirement~~  
4794 from the Florida Retirement System Contributions Clearing Trust  
4795 Fund to the disability account of the Florida Retirement System  
4796 Trust Fund.

4797 (2) The allocations are stated as a percentage of each  
4798 investment plan member's ~~optional retirement program~~  
4799 ~~participant's~~ gross compensation for the calendar month. A  
4800 change in a contribution percentage is effective the first day  
4801 of the month for which retirement contributions ~~a full month's~~  
4802 ~~employer contribution~~ may be made on or after the beginning date  
4803 of the change. Contribution percentages may be modified by  
4804 general law.

4805 (3) Effective July 1, 2002, allocations from the Florida  
4806 Retirement System ~~FRS~~ Contribution Clearing Fund to provide



20112100e2

4807 disability coverage for members of the investment plan  
 4808 ~~participants in the optional retirement program~~, and to offset  
 4809 the costs of administering said coverage, shall be as follows:

Membership Class	Percentage of Gross Compensation
Regular Class	0.25%
Special Risk Class	1.33%
Special Risk Administrative Support Class	0.45%
Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
Elected Officers' Class— Justices, Judges	0.73%
Elected Officers' Class— County Elected Officers	0.41%
Senior Management Service Class	0.26%

4818  
 4819 (4) Effective July 1, 2011, allocations from the Florida  
 4820 Retirement System Contribution Clearing Fund to provide

20112100e2

4821 disability coverage for members of the investment plan and to  
4822 offset the costs of administering such coverage shall be the  
4823 actuarially indicated amount necessary to fund the statutorily  
4824 authorized benefit for the plan year as determined by the  
4825 department's actuary.

4826 Section 32. Section 121.74, Florida Statutes, is amended to  
4827 read:

4828 121.74 Administrative and educational expenses.—In addition  
4829 to contributions required under ss. ~~ss.~~ 121.71 and 121.73,  
4830 effective July 1, 2010, through June 30, 2014, employers  
4831 participating in the Florida Retirement System shall contribute  
4832 an amount equal to 0.03 percent of the payroll reported for each  
4833 class or subclass of Florida Retirement System membership;  
4834 effective July 1, 2014, the contribution rate shall be 0.04  
4835 percent of the payroll reported for each class or subclass of  
4836 membership. The amount contributed shall be transferred by the  
4837 division of ~~Retirement~~ from the Florida Retirement System  
4838 Contributions Clearing Trust Fund to the state board's ~~Board of~~  
4839 ~~Administration's~~ administrative trust fund to offset the costs  
4840 of administering the investment plan ~~optional retirement program~~  
4841 and the costs of providing educational services to members  
4842 participating participants in the pension plan ~~defined benefit~~  
4843 ~~program~~ and the investment plan ~~optional retirement program~~.  
4844 Approval of the trustees is required before the expenditure of  
4845 these funds. Payments for third-party administrative or  
4846 educational expenses shall be made only pursuant to the terms of  
4847 the approved contracts for such services.

4848 Section 33. Section 121.75, Florida Statutes, is amended to  
4849 read:

20112100e2

4850           121.75 Allocation for pension plan ~~defined benefit~~  
4851 ~~program~~.—After making the transfers required pursuant to ss.  
4852 121.71, 121.72, 121.73, and 121.74, the monthly balance of funds  
4853 in the Florida Retirement System Contributions Clearing Trust  
4854 Fund shall be transferred to the Florida Retirement System Trust  
4855 Fund to pay the costs of providing pension plan ~~defined benefit~~  
4856 ~~program~~ benefits and plan administrative costs under the pension  
4857 plan ~~defined benefit program~~.

4858           Section 34. Section 121.77, Florida Statutes, is amended to  
4859 read:

4860           121.77 Deductions from member ~~participant~~ accounts.—The  
4861 State Board of Administration may authorize the third-party  
4862 administrator to deduct reasonable fees and apply appropriate  
4863 charges to investment plan member ~~optional retirement program~~  
4864 ~~participant~~ accounts. In no event may ~~shall~~ administrative and  
4865 educational expenses exceed the portion of employer  
4866 contributions earmarked for such expenses under this part,  
4867 except for reasonable administrative charges assessed against  
4868 member ~~participant~~ accounts of persons for whom no employer  
4869 contributions are made during the calendar quarter. Investment  
4870 management fees shall be deducted from member ~~participant~~  
4871 accounts, pursuant to the terms of the contract between the  
4872 provider and the board.

4873           Section 35. Subsections (1) and (3) of section 121.78,  
4874 Florida Statutes, are amended to read:

4875           121.78 Payment and distribution of contributions.—

4876           (1) Contributions made pursuant to this part, including the  
4877 employee contributions, shall be paid by the employer to the  
4878 division ~~of Retirement~~ by electronic funds transfer no later

20112100e2

4879 than the 5th working day of the month immediately following the  
4880 month during which the payroll period ended. Accompanying  
4881 payroll data must be transmitted to the division concurrent with  
4882 the contributions.

4883 (3) (a) Employer and employee contributions and accompanying  
4884 payroll data received after the 5th working day of the month are  
4885 considered late. The employer shall be assessed by the division  
4886 ~~of Retirement~~ a penalty of 1 percent of the contributions due  
4887 for each calendar month or part thereof that the contributions  
4888 or accompanying payroll data are late. Proceeds from the 1  
4889 percent ~~1-percent~~ assessment against contributions made on  
4890 behalf of members of the pension plan ~~participants of the~~  
4891 ~~defined benefit program~~ shall be deposited in the Florida  
4892 Retirement System Trust Fund, and proceeds from the 1 percent ~~1-~~  
4893 ~~percent~~ assessment against contributions made on behalf of  
4894 members of the investment plan ~~participants of the optional~~  
4895 ~~retirement program~~ shall be transferred to the third-party  
4896 administrator for deposit into member ~~participant~~ accounts, as  
4897 provided in paragraph (c) ~~(b)~~.

4898 (b) Retirement contributions paid for a prior period shall  
4899 be charged a delinquent fee of 1 percent for each calendar month  
4900 or part thereof that the contributions should have been paid.  
4901 This includes prior period contributions due to incorrect wages,  
4902 contributions from an earlier report or wages, and contributions  
4903 that should have been reported but were not. The delinquent  
4904 assessments may not be waived.

4905 (c) (b) If employee contributions or contributions made by  
4906 an employer on behalf of members of the investment plan  
4907 ~~participants of the optional retirement program~~ or accompanying

20112100e2

4908 payroll data are not received within the calendar month they are  
4909 due, including, but not limited to, contribution adjustments as  
4910 a result of employer errors or corrections, and if that  
4911 delinquency results in market losses to members ~~participants~~,  
4912 the employer shall reimburse each member's ~~participant's~~ account  
4913 for market losses resulting from the late contributions. If a  
4914 member ~~participant~~ has terminated employment and taken a  
4915 distribution, the member ~~participant~~ is responsible for  
4916 returning any excess contributions erroneously provided by  
4917 employers, adjusted for any investment gain or loss incurred  
4918 during the period such excess contributions were in the member's  
4919 ~~participant's~~ account. The state board or its designated agent  
4920 shall communicate to terminated members ~~participants~~ any  
4921 obligation to repay such excess contribution amounts. However,  
4922 the state board, its designated agents, the Florida Public  
4923 ~~Employee Optional Retirement System Investment Plan Program~~  
4924 Trust Fund, the department, or the Florida Retirement System  
4925 Trust Fund may not incur any loss or gain as a result of an  
4926 employer's correction of such excess contributions. The third-  
4927 party administrator, hired by the state board pursuant to s.  
4928 121.4501(8), shall calculate the market losses for each affected  
4929 member ~~participant~~. If contributions made on behalf of members  
4930 of the investment plan ~~participants of the optional retirement~~  
4931 ~~program~~ or accompanying payroll data are not received within the  
4932 calendar month due, the employer shall also pay the cost of the  
4933 third-party administrator's calculation and reconciliation  
4934 adjustments resulting from the late contributions. The third-  
4935 party administrator shall notify the employer of the results of  
4936 the calculations and the total amount due from the employer for

20112100e2

4937 such losses and the costs of calculation and reconciliation. The  
4938 employer shall remit to the division ~~of Retirement~~ the amount  
4939 due within 30 working days after the date of the penalty notice  
4940 sent by the division. The division shall transfer that amount to  
4941 the third-party administrator, which shall deposit proceeds from  
4942 the 1 percent ~~1-percent~~ assessment and from individual market  
4943 losses into member ~~participant~~ accounts, as appropriate. The  
4944 state board may adopt rules to administer the provisions  
4945 regarding late contributions, late submission of payroll data,  
4946 the process for reimbursing member ~~participant~~ accounts for  
4947 resultant market losses, and the penalties charged to the  
4948 employers.

4949 (d) If employee contributions reported by an employer on  
4950 behalf of the employee are reduced as a result of employer  
4951 errors or corrections and the employee has terminated employment  
4952 and taken a refund or distribution, the employer shall be billed  
4953 and is responsible for recovering from the employee any excess  
4954 contributions erroneously provided by the employer.

4955 (e) ~~(e)~~ Delinquency fees specified in paragraph (a) may be  
4956 waived by the division ~~of Retirement~~, with regard to pension  
4957 plan defined benefit program contributions, and by the state  
4958 board, with regard to investment plan ~~optional retirement~~  
4959 ~~program~~ contributions, only if, in the opinion of the division  
4960 or the board, as appropriate, exceptional circumstances beyond  
4961 the employer's control prevented remittance by the prescribed  
4962 due date notwithstanding the employer's good faith efforts to  
4963 effect delivery. Such a waiver of delinquency may be granted an  
4964 employer only once each plan ~~state fiscal~~ year.

4965 (f) If the employer submits excess employer or employee

20112100e2

4966 contributions, the employer shall receive a credit to be applied  
4967 against future contributions owed. The employer is responsible  
4968 for reimbursing the employee for any excess contributions  
4969 submitted if any return of such an erroneous excess pretax  
4970 contribution by the program is made within 1 year after making  
4971 erroneous contributions or such other period as allowed under  
4972 applicable Internal Revenue Service guidance.

4973 (g) ~~(d)~~ If contributions made by an employer on behalf of  
4974 members of the investment program ~~participants in the optional~~  
4975 ~~retirement program~~ are delayed in posting to member ~~participant~~  
4976 accounts due to acts of God beyond the control of the division  
4977 ~~of Retirement~~, the state board, or the third-party  
4978 administrator, as applicable, market losses resulting from the  
4979 late contributions are not payable to the members ~~participants~~.

4980 Section 36. Subsection (1) of section 175.121, Florida  
4981 Statutes, is amended to read:

4982 175.121 Department of Revenue and Division of Retirement to  
4983 keep accounts of deposits; disbursements.—For any municipality  
4984 or special fire control district having a chapter or local law  
4985 plan established pursuant to this chapter:

4986 (1) The Department of Revenue shall keep a separate account  
4987 of all moneys collected for each municipality and each special  
4988 fire control district pursuant to ~~under the provisions of~~ this  
4989 chapter. All moneys so collected must be transferred to the  
4990 Police and Firefighters' Premium Tax Trust Fund and ~~shall be~~  
4991 separately accounted for by the division. The moneys budgeted as  
4992 necessary to pay the expenses of the division for the daily  
4993 oversight and monitoring of the firefighters' pension plans  
4994 under this chapter and for the oversight and actuarial reviews

20112100e2

4995 conducted under part VII of chapter 112 are annually  
4996 appropriated from the following sources in the order listed:

4997 (a) Interest and investment income earned on the moneys  
4998 collected for each municipality or special fire control district  
4999 and deposited in the Police and Firefighters' Premium Tax Trust  
5000 Fund. Interest and investment income remaining ~~thereafter~~ in the  
5001 trust fund which is unexpended and otherwise unallocated by law  
5002 shall revert to the General Revenue Fund on June 30 of each  
5003 year.

5004 (b) Moneys collected for each municipality or special fire  
5005 control district and deposited in the Police and Firefighters'  
5006 Premium Tax Trust Fund. Moneys used pursuant to this paragraph  
5007 shall be reimbursed during years in which there is an excess of  
5008 interest and investment income under paragraph (a).

5009 Section 37. Subsection (1) of section 175.341, Florida  
5010 Statutes, is amended to read:

5011 175.341 Duties of Division of Retirement; rulemaking  
5012 authority; investments by State Board of Administration.—

5013 (1) The division is ~~shall be~~ responsible for the daily  
5014 oversight and monitoring of the ~~for~~ actuarial soundness of the  
5015 firefighters' pension plans, whether chapter or local law plans,  
5016 established under this chapter, for receiving and holding the  
5017 premium tax moneys collected under this chapter, and, upon  
5018 determining compliance with the provisions of this chapter, for  
5019 disbursing those moneys to the firefighters' pension plans. The  
5020 funds necessary to pay expenses for such administration shall be  
5021 annually appropriated as provided in s. 175.121(1) ~~from the~~  
5022 ~~interest and investment income earned on moneys deposited in the~~  
5023 ~~trust fund.~~



20112100e2

5024 Section 38. Subsection (1) of section 185.10, Florida  
5025 Statutes, is amended to read:

5026 185.10 Department of Revenue and Division of Retirement to  
5027 keep accounts of deposits; disbursements.—For any municipality  
5028 having a chapter plan or local law plan under this chapter:

5029 (1) The Department of Revenue shall keep a separate account  
5030 of all moneys collected for each municipality pursuant to ~~under~~  
5031 ~~the provisions of~~ this chapter. All moneys so collected must be  
5032 transferred to the Police and Firefighters' Premium Tax Trust  
5033 Fund and ~~shall be~~ separately accounted for by the division. The  
5034 moneys budgeted as necessary to pay the expenses of the division  
5035 for the daily oversight and monitoring of the police officers'  
5036 retirement plans under this chapter and for the oversight and  
5037 actuarial reviews conducted under part VII of chapter 112 are  
5038 annually appropriated from the following sources in the order  
5039 listed:

5040 (a) Interest and investment income earned on the moneys  
5041 collected for each municipality or special fire control district  
5042 and deposited in the Police and Firefighters' Premium Tax Trust  
5043 Fund. Interest and investment income remaining ~~thereafter~~ in the  
5044 trust fund which is unexpended and otherwise unallocated by law  
5045 shall revert to the General Revenue Fund on June 30 of each  
5046 year.

5047 (b) Moneys collected for each municipality or special fire  
5048 control district and deposited in the Police and Firefighters'  
5049 Premium Tax Trust Fund. Moneys used pursuant to this paragraph  
5050 shall be reimbursed during years in which there is an excess of  
5051 interest and investment income under paragraph (a).

5052 Section 39. Subsection (1) of section 185.23, Florida

20112100e2

5053 Statutes, is amended to read:

5054 185.23 Duties of Division of Retirement; rulemaking  
5055 authority; investments by State Board of Administration.—

5056 (1) The division is ~~shall be~~ responsible for the daily  
5057 oversight and monitoring of the ~~for~~ actuarial soundness of the  
5058 municipal police officers' retirement plans, whether chapter or  
5059 local law plans, established under this chapter, for receiving  
5060 and holding the premium tax moneys collected under this chapter,  
5061 and, upon determining compliance with the provisions of this  
5062 chapter, for disbursing those moneys to the municipal police  
5063 officers' retirement plans. The funds to pay the expenses for  
5064 such administration shall be annually appropriated as provided  
5065 in s. 185.10(1) ~~from the interest and investment income earned~~  
5066 ~~on moneys deposited in the trust fund.~~

5067 Section 40. Subsection (1) of section 250.22, Florida  
5068 Statutes, is amended to read:

5069 250.22 Retirement.—

5070 (1) Any person who is at least 62 years of age and ~~who~~ has  
5071 completed at least ~~not less than~~ 30 years of service as an  
5072 officer or enlisted person in the Florida National Guard,  
5073 ~~(exclusive of time served on the inactive or retired lists,)~~ on,  
5074 ~~before, or subsequent to the passage of this section~~ is eligible  
5075 upon application, whether on the active or retired list of the  
5076 Florida National Guard, to be retired under the provisions of  
5077 this section at the highest rank attained while serving in the  
5078 Florida National Guard or the federal military forces.

5079 (a) Such person, ~~and~~ shall initially receive pay in an  
5080 amount equal to one-half of the base pay as ~~is now or hereafter~~  
5081 ~~may be~~ prescribed on the date of retirement in the applicable

20112100e2

5082 pay tables for similar grades and periods of service of  
5083 personnel in the United States Army or Air Force ~~if, provided~~  
5084 ~~that,~~ in computing service in the Florida National Guard,  
5085 service in federal military forces during a period of war or  
5086 upon order of the President of the United States, in any  
5087 military duty, where the applicant has been inducted from the  
5088 Florida National Guard ~~is shall be~~ included; and ~~provided~~  
5089 ~~further that,~~ in computing such service performed after July 1,  
5090 1955, only federally recognized service ~~is shall be~~ included.  
5091 Eligibility for retirement under this section is in addition to  
5092 any other retirement that such person is eligible to receive;  
5093 ~~provided,~~ however, such that retirement pay ~~under this section~~  
5094 shall be reduced by any amount of retirement pay, pension, or  
5095 compensation which such person is eligible to receive from the  
5096 Federal Government for military service. Unless otherwise  
5097 provided by law, effective July 1, 2011, the retirement pay of a  
5098 member or former member of the Florida National Guard may not be  
5099 recomputed to reflect an increase in the rates of base pay for  
5100 active members of the armed forces.

5101 (b) Effective July 1, 2012, and annually thereafter on July  
5102 1, the Division of Retirement shall adjust the retirement pay of  
5103 persons eligible under this section based on s. 121.101(3).

5104 Section 41. Paragraph (a) of subsection (4) of section  
5105 1012.875, Florida Statutes, is amended to read:

5106 1012.875 State Community College System Optional Retirement  
5107 Program.—Each community college may implement an optional  
5108 retirement program, if such program is established therefor  
5109 pursuant to s. 1001.64(20), under which annuity or other  
5110 contracts providing retirement and death benefits may be

20112100e2

5111 purchased by, and on behalf of, eligible employees who  
5112 participate in the program, in accordance with s. 403(b) of the  
5113 Internal Revenue Code. Except as otherwise provided herein, this  
5114 retirement program, which shall be known as the State Community  
5115 College System Optional Retirement Program, may be implemented  
5116 and administered only by an individual community college or by a  
5117 consortium of community colleges.

5118 (4) (a) Through June 30, 2011, each college must contribute  
5119 on behalf of each program member ~~participant~~ an amount equal to  
5120 10.43 percent of the employee's ~~participant's~~ gross monthly  
5121 compensation. Effective July 1, 2011, each member shall  
5122 contribute an amount equal to the employee contribution required  
5123 under s. 121.71(3). Effective July 1, 2011, each employer shall  
5124 contribute on behalf of each program member an amount equal to  
5125 the difference between 10.43 percent of the employee's gross  
5126 monthly compensation and the employee's required contribution  
5127 based on the employee's gross monthly compensation. The college  
5128 shall deduct an amount approved by the district board of  
5129 trustees of the college to provide for the administration of the  
5130 optional retirement program. Payment of this contribution must  
5131 be made ~~either~~ directly by the college or through the program  
5132 administrator to the designated company contracting for payment  
5133 of benefits to the program member ~~participant~~.

5134 Section 42. The Legislature finds that a proper and  
5135 legitimate state purpose is served when employees and retirees  
5136 of the state and its political subdivisions, and the dependents,  
5137 survivors, and beneficiaries of such employees and retirees, are  
5138 extended the basic protections afforded by governmental  
5139 retirement systems. These persons must be provided benefits that

20112100e2

5140 are fair and adequate and that are managed, administered, and  
5141 funded in an actuarially sound manner, as required by s. 14,  
5142 Article X of the State Constitution and part VII of chapter 112,  
5143 Florida Statutes. Therefore, the Legislature determines and  
5144 declares that this act fulfills an important state interest.

5145 Section 43. The Division of Statutory Revision is requested  
5146 to rename the title of part II of chapter 121, Florida Statutes,  
5147 as "Florida Retirement System Investment Plan."

5148 Section 44. (1) Effective upon this act becoming a law, the  
5149 State Board of Administration and the Department of Management  
5150 Services shall, as soon as practicable, request a determination  
5151 letter and private letter ruling from the United States Internal  
5152 Revenue Service. If the Internal Revenue Service refuses to act  
5153 upon a request for a private letter ruling, the legal opinion  
5154 from a qualified tax attorney or firm may be substituted for the  
5155 private letter ruling.

5156 (2) If the board or the department receives notification  
5157 from the United States Internal Revenue Service that this act or  
5158 any portion of this act will cause the Florida Retirement  
5159 System, or a portion thereof, to be disqualified for tax  
5160 purposes under the Internal Revenue Code, then that portion does  
5161 not apply. Upon such notice, the state board and the department  
5162 shall notify the presiding officers of the Legislature.

5163 Section 45. This act shall take effect June 30, 2011.