

20112100er

1  
2 An act relating to retirement; amending ss. 110.123,  
3 112.0801, 112.363, 112.65, and 121.011, F.S.;  
4 conforming provisions to changes made by the act;  
5 amending s. 121.021, F.S.; revising definitions;  
6 amending s. 121.051, F.S.; requiring that a local  
7 governmental entity or the governing body of a charter  
8 school or charter technical career center make certain  
9 elections regarding benefits at the time the entity or  
10 governing body joins the Florida Retirement System;  
11 requiring employee retirement contributions; providing  
12 that employer-paid employee contributions are subject  
13 to certain taxes; amending s. 121.0515, F.S.;  
14 redefining membership in the Special Risk Class;  
15 redefining criteria for Special Risk Class membership;  
16 providing for employee contributions to be used, if  
17 applicable, when purchasing credit for past service;  
18 amending s. 121.052, F.S., relating to the membership  
19 class of elected officers; conforming provisions to  
20 changes made by the act; requiring member  
21 contributions; providing for a refund of contributions  
22 under certain circumstances for an officer who leaves  
23 office; providing that a member who obtains a refund  
24 of contributions waives certain rights under the  
25 Florida Retirement System; amending s. 121.053, F.S.;  
26 clarifying the employer contributions required for  
27 Elected Officers' Class members who participate in the  
28 Deferred Retirement Option Program; amending s.  
29 121.055, F.S., relating to the Senior Management

20112100er

30 Service Class; conforming provisions to changes made  
31 by the act; requiring employee contributions;  
32 providing for a refund of contributions under certain  
33 circumstances for a member who terminates employment;  
34 providing that a member who obtains a refund of  
35 contributions waives certain rights under the Florida  
36 Retirement System; limiting the payment of benefits  
37 prior to a participant's termination of employment;  
38 amending s. 121.061, F.S.; conforming provisions to  
39 changes made by the act; amending s. 121.071, F.S.;  
40 requiring employer and employee contributions to the  
41 retirement system; providing for a refund of  
42 contributions under certain circumstances following  
43 termination of employment; prohibiting such refund if  
44 an approved qualified domestic relations order is  
45 filed against the participant's retirement account;  
46 providing that a member who obtains a refund of  
47 contributions waives certain rights under the Florida  
48 Retirement System; requiring repayment plus interest  
49 of an invalid refund; amending s. 121.081, F.S.;  
50 providing and revising requirements for contributions  
51 for prior service performed on or after a certain  
52 date; amending s. 121.091, F.S.; modifying the early  
53 retirement benefit calculation for those members  
54 retiring on or after a certain date or before the  
55 normal retirement date to reflect the change in normal  
56 retirement age; revising provisions relating to  
57 disability retirement for judges; providing for the  
58 refund of accumulated contributions if a member's

20112100er

59 employment is terminated for any reason other than  
60 retirement; revising the interest rate on benefits for  
61 members enrolling in drop after a certain date;  
62 conforming provisions to changes made by the act;  
63 amending s. 121.1001, F.S.; conforming provisions to  
64 changes made by the act; amending s. 121.101, F.S.;  
65 revising the cost-of-living adjustment depending on  
66 the date of retirement; amending s. 121.1115, F.S.;  
67 conforming provisions to changes made by the act;  
68 amending s. 121.1122, F.S.; conforming provisions to  
69 changes made by the act; amending s. 121.121, F.S.;  
70 requiring that the purchase of creditable service  
71 following an authorized leave of absence be purchased  
72 at the employer and employee contribution rates in  
73 effect during the leave of absence after a certain  
74 date; amending s. 121.125, F.S.; requiring that a  
75 penalty be assessed against certain employers that  
76 fail to pay the required contributions for workers'  
77 compensation; reenacting s. 121.161, F.S.; conforming  
78 provisions to changes made by the act; amending s.  
79 121.182, F.S.; conforming provisions to changes made  
80 by the act; amending s. 121.35, F.S., relating to the  
81 optional retirement program for the State University  
82 System; requiring employee contributions; limiting the  
83 payment of benefits before a participant's termination  
84 of employment; conforming provisions to changes made  
85 by the act; amending s. 121.355, F.S.; conforming  
86 provisions to changes made by the act; amending s.  
87 121.4501, F.S.; changing the name of the Public

20112100er

88 Employee Optional Retirement Program to the Florida  
89 Retirement System Investment Plan; requiring members  
90 to make certain contributions to the plan; revising  
91 and providing definitions; revising the benefit  
92 commencement age for a member enrolled on or after a  
93 certain date; providing for contribution adjustments  
94 as a result of employer errors or corrections;  
95 requiring an employer to receive a credit for excess  
96 contributions and to reimburse an employee for excess  
97 contributions, subject to certain limitations;  
98 providing for a pension plan participant to retain his  
99 or her prior plan choice following a return to  
100 employment; prohibiting a retiree who is reemployed  
101 from renewing membership in the plan; limiting certain  
102 refunds of contributions which exceed the amount that  
103 would have accrued had the member remained in the  
104 defined benefit program; providing certain  
105 requirements and limitations with respect to  
106 contributions; clarifying that participant and  
107 employer contributions are earmarked for specified  
108 purposes; providing duties of the third-party  
109 administrator; providing that a member is fully and  
110 immediately vested with respect to employee  
111 contributions paid by the member; providing for the  
112 forfeiture of nonvested employer contributions and  
113 service credit under certain circumstances; conforming  
114 provisions to changes made by the act; amending s.  
115 121.4502, F.S.; changing the name of the Public  
116 Employee Optional Retirement Program Trust Fund to the

20112100er

117 Florida Retirement System Investment Plan Trust Fund;  
118 amending s. 121.4503, F.S.; providing for the deposit  
119 of employee contributions into the Florida Retirement  
120 System Contributions Clearing Trust Fund; amending s.  
121 121.571, F.S.; providing requirements for submitting  
122 employee contributions; amending s. 121.591, F.S.;  
123 limiting the payment of benefits prior to a member's  
124 termination of employment; providing for the  
125 forfeiture of nonvested accumulations and service  
126 credits upon payment of certain vested benefits;  
127 providing that the distribution payment method  
128 selected by the member or beneficiary is final and  
129 irrevocable at the time of benefit distribution;  
130 prohibiting a distribution of employee contributions  
131 if a qualified domestic relations order is filed  
132 against the participant's account; conforming  
133 provisions to changes made by the act; amending s.  
134 121.5911, F.S.; conforming provisions to changes made  
135 by the act; amending s. 121.70, F.S.; revising  
136 legislative intent; amending s. 121.71, F.S.;  
137 requiring that employee contributions be deducted from  
138 the employee's monthly salary, beginning on a  
139 specified date, and treated as employer contributions  
140 under certain provisions of federal law; clarifying  
141 that an employee may not receive such contributions  
142 directly; specifying the required employee retirement  
143 contribution rates for the membership of each  
144 membership class and subclass of the Florida  
145 Retirement System; specifying the required employer

20112100er

146 retirement contribution rates for each membership  
147 class and subclass of the Florida Retirement System in  
148 order to address unfunded actuarial liabilities of the  
149 system; requiring an assessment to be imposed if the  
150 employee contributions remitted are less than the  
151 amount required under certain circumstances; providing  
152 for the employer to receive a credit for excess  
153 contributions remitted and to apply such credit  
154 against future contributions owed; amending ss.  
155 121.72, 121.73, 121.74, 121.75, and 121.77, F.S.;  
156 conforming provisions to changes made by the act;  
157 amending s. 121.78, F.S.; requiring that certain fees  
158 be imposed for delinquent payments for retirement  
159 contributions; providing that an employer is  
160 responsible for recovering any refund provided to an  
161 employee in error; revising the terms of an authorized  
162 waiver of delinquency; requiring an employer to  
163 receive a credit for excess contributions and to  
164 reimburse an employee for excess contributions,  
165 subject to certain limitations; amending s. 1012.875,  
166 F.S.; requiring employer and employee contributions  
167 for members of the State Community College System  
168 Optional Retirement Program on a certain date;  
169 limiting the payment of benefits prior to a  
170 participant's termination of employment; requiring the  
171 State Board of Administration and the Department of  
172 Management Services to request a determination letter  
173 and private letter ruling from the United States  
174 Internal Revenue Service; providing legislative

20112100er

175 findings; providing that the act fulfills an important  
176 state interest; providing appropriations to and  
177 authorizing additional positions for the Division of  
178 Retirement within the Department of Management  
179 Services; providing effective dates.  
180

181 Be It Enacted by the Legislature of the State of Florida:  
182

183 Section 1. Paragraph (g) of subsection (2) of section  
184 110.123, Florida Statutes, is amended to read:

185 110.123 State group insurance program.—

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

187 (g) "Retired state officer or employee" or "retiree" means  
188 any state or state university officer or employee who retires  
189 under a state retirement system or a state optional annuity or  
190 retirement program or is placed on disability retirement, and  
191 who was insured under the state group insurance program at the  
192 time of retirement, and who begins receiving retirement benefits  
193 immediately after retirement from state or state university  
194 office or employment. The term also includes ~~In addition to~~  
195 ~~these requirements,~~ any state officer or state employee who  
196 retires under the Florida Retirement System Investment Plan  
197 ~~Public Employee Optional Retirement Program~~ established under  
198 part II of chapter 121 ~~shall be considered a "retired state~~  
199 ~~officer or employee" or "retiree" as used in this section~~ if he  
200 or she:

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

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

20112100er

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

205 Section 2. Section 112.0801, Florida Statutes, is amended  
206 to read:

207 112.0801 Group insurance; participation by retired  
208 employees.—

209 (1) Any state agency, county, municipality, special  
210 district, community college, or district school board that ~~which~~  
211 provides life, health, accident, hospitalization, or annuity  
212 insurance, or all of any kinds of such insurance, for its  
213 officers and employees and their dependents upon a group  
214 insurance plan or self-insurance plan shall allow all former  
215 personnel who ~~have~~ retired before ~~prior to~~ October 1, 1987, as  
216 well as those who retire on or after such date, and their  
217 eligible dependents, the option of continuing to participate in  
218 the ~~such~~ group insurance plan or self-insurance plan. Retirees  
219 and their eligible dependents shall be offered the same health  
220 and hospitalization insurance coverage as is offered to active  
221 employees at a premium cost of no more than the premium cost  
222 applicable to active employees. For ~~the~~ retired employees and  
223 their eligible dependents, the cost of ~~any such~~ continued  
224 participation ~~in any type of plan or any of the cost thereof~~ may  
225 be paid by the employer or by the retired employees. To  
226 determine health and hospitalization plan costs, the employer  
227 shall commingle the claims experience of the retiree group with  
228 the claims experience of the active employees; and, for other  
229 types of coverage, the employer may commingle the claims  
230 experience of the retiree group with the claims experience of  
231 active employees. Retirees covered under Medicare may be  
232 experience-rated separately from the retirees not covered by



20112100er

233 Medicare and from active employees if, ~~provided that~~ the total  
234 premium does not exceed that of the active group and coverage is  
235 basically the same as for the active group.

236 (2) For purposes of this section, "retiree" means any  
237 officer or employee who retires under a state retirement system  
238 or a state optional annuity or retirement program or is placed  
239 on disability retirement and who begins receiving retirement  
240 benefits immediately after retirement from employment. In  
241 addition to these requirements, any officer or employee who  
242 retires under the Florida Retirement System Investment Plan  
243 ~~Public Employee Optional Retirement Program~~ established under  
244 part II of chapter 121 is ~~shall be~~ considered a "retired officer  
245 or employee" or "retiree" as used in this section if he or she:

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

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

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

255 112.363 Retiree health insurance subsidy.—

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

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

20112100er

262           1. For a member participant of the investment plan Public  
263 ~~Employee Optional Retirement Program~~ established under part II  
264 of chapter 121, the participant meets the age or service  
265 requirements to qualify for normal retirement as set forth in s.  
266 121.021(29) and meets the definition of retiree in s.  
267 121.4501(2).

268           2. For a member of the Florida Retirement System Pension  
269 Plan defined benefit program, or any employee who maintains  
270 creditable service under ~~both~~ the pension plan defined benefit  
271 ~~program~~ and the investment plan Public Employee Optional  
272 ~~Retirement Program~~, the member begins drawing retirement  
273 benefits from the pension plan defined benefit program of the  
274 ~~Florida Retirement System~~.

275           (c)~~1~~. Effective July 1, 2001, any person retiring on or  
276 after that ~~such~~ date as a member of the Florida Retirement  
277 System, including a member any participant of the investment  
278 plan defined contribution program administered pursuant to part  
279 II of chapter 121, must have satisfied the vesting requirements  
280 for his or her membership class under the pension plan Florida  
281 ~~Retirement System defined benefit program~~ as administered under  
282 part I of chapter 121. However,

283           ~~2. Notwithstanding the provisions of subparagraph 1., a~~  
284 person retiring due to disability must ~~either~~ qualify for a  
285 regular or in-line-of-duty disability benefit as provided in s.  
286 121.091(4) or qualify for a disability benefit under a  
287 disability plan established under part II of chapter 121, as  
288 appropriate.

289           (3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

290           (e)1. Beginning July 1, 2001, each eligible retiree of the

20112100er

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

306 2. Beginning July 1, 2002, each eligible member participant  
307 of the investment plan ~~Public Employee Optional Retirement~~  
308 ~~Program~~ of the Florida Retirement System who has met the  
309 requirements of this section, or, if the member participant is  
310 deceased, his or her spouse who is the member's participant's  
311 designated beneficiary, shall receive a monthly retiree health  
312 insurance subsidy payment equal to the number of years of  
313 creditable service, as provided in this subparagraph, completed  
314 at the time of retirement, multiplied by \$5; however, an ~~no~~  
315 eligible retiree or beneficiary may not receive a subsidy  
316 payment of more than \$150 or less than \$30. For purposes of  
317 determining a member's participant's creditable service used to  
318 calculate the health insurance subsidy, a member's participant's  
319 years of service credit or fraction thereof shall be based on

20112100er

320 the member's ~~participant's~~ work year as defined in s.  
321 121.021(54). Credit must ~~shall~~ be awarded for a full work year  
322 if ~~whenever~~ health insurance subsidy contributions have been  
323 made ~~as required by law~~ for each month in the member's  
324 ~~participant's~~ work year. In addition, all years of creditable  
325 service retained under the Florida Retirement System Pension  
326 Plan ~~must defined benefit program~~ shall be included as  
327 creditable service for purposes of this section. Notwithstanding  
328 any other provision in this section ~~to the contrary~~, the spouse  
329 at the time of death is ~~shall be~~ the member's ~~participant's~~  
330 beneficiary unless such member ~~participant~~ has designated a  
331 different beneficiary subsequent to the member's ~~participant's~~  
332 most recent marriage.

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

335 112.65 Limitation of benefits.—

336 (1) ESTABLISHMENT OF PROGRAM.—The normal retirement benefit  
337 or pension payable to a retiree who becomes a member of any  
338 retirement system or plan and who has not previously  
339 participated in such plan, on or after January 1, 1980, may  
340 ~~shall~~ not exceed 100 percent of his or her average final  
341 compensation. However, ~~nothing contained in this section~~ does  
342 not ~~shall~~ apply to supplemental retirement benefits or to  
343 pension increases attributable to cost-of-living increases or  
344 adjustments. For the purposes of this section, benefits accruing  
345 in individual member ~~participant~~ accounts established under the  
346 investment plan ~~Public Employee Optional Retirement Program~~  
347 established in part II of chapter 121 are considered  
348 supplemental benefits. As used in this section, the term

20112100er

349 "average final compensation" means the average of the member's  
350 earnings over a period of time which the governmental entity has  
351 established by statute, charter, or ordinance.

352 Section 5. Paragraph (g) of subsection (3) of section  
353 121.011, Florida Statutes, is amended, and paragraph (h) is  
354 added to that subsection, to read:

355 121.011 Florida Retirement System.—

356 (3) PRESERVATION OF RIGHTS.—

357 (g) Any member of the Florida Retirement System or any  
358 member of an existing system under this chapter who is not  
359 retired and who is, has been, or shall be dismissed from  
360 employment shall be considered terminated from active membership  
361 in such system.

362 1. If such dismissal is rescinded by proper authority or  
363 through legal proceedings, the member is eligible to receive  
364 retirement service credit for such period of dismissal if  
365 ~~provided~~:

366 a. The dismissal action taken against the member is  
367 determined to be incorrect and is negated, the employee is made  
368 whole for the period of the dismissal or any portion thereof,  
369 and employment is reinstated; and

370 b. The employer pays into the Retirement System Trust Fund  
371 the total required employer contributions for the period for  
372 which the employee is made whole, plus interest at 6.5 percent  
373 compounded annually until full payment is made. The employee  
374 shall pay the total employee contributions, ~~plus interest~~, if  
375 applicable. The employer shall pay the interest on employee  
376 contributions, if applicable.

377 2. If the dismissal action is subsequently changed to a

20112100er

378 suspension by proper authority or through legal proceedings, the  
379 member is eligible to receive retirement service credit,  
380 provided the member's employment is reinstated, restoring the  
381 employee-employer relationship, and the employee pays the total  
382 required employer and employee contributions and complies with  
383 all requirements in paragraph (e).

384 (h) Effective July 1, 2011, the retirement system shall  
385 require employer and employee contributions as provided in s.  
386 121.071 and part III of this chapter.

387 Section 6. Subsections (3), (7), and (15), paragraph (a) of  
388 subsection (19), paragraph (b) of subsection (22), and  
389 subsections (24), (29), (38), (39), (45), (55), and (59) of  
390 section 121.021, Florida Statutes, are amended 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 (7) "Division" means the Division of Retirement in the  
406 department. ~~"City" means any municipality duly incorporated~~

20112100er

407 ~~under the laws of the state.~~

408       (15) "Special risk member" or "Special Risk Class member"  
409 means a member of the Florida Retirement System who meets the  
410 eligibility and criteria required under s. 121.0515 for  
411 participation in the Special Risk Class.

412       ~~(a) Until October 1, 1978, "special risk member" means any~~  
413 ~~officer or employee whose application is approved by the~~  
414 ~~administrator and who receives salary payments for work~~  
415 ~~performed as a peace officer; law enforcement officer; police~~  
416 ~~officer; highway patrol officer; custodial employee at a~~  
417 ~~correctional or detention facility; correctional agency employee~~  
418 ~~whose duties and responsibilities involve direct contact with~~  
419 ~~inmates, but excluding secretarial and clerical employees;~~  
420 ~~firefighter; or an employee in any other job in the field of law~~  
421 ~~enforcement or fire protection if the duties of such person are~~  
422 ~~certified as hazardous by his or her employer.~~

423       ~~(b) Effective October 1, 1978, "special risk member" means~~  
424 ~~a member of the Florida Retirement System who is designated as a~~  
425 ~~special risk member by the division in accordance with s.~~  
426 ~~121.0515. Such member must be employed as a law enforcement~~  
427 ~~officer, a firefighter, or a correctional officer and must meet~~  
428 ~~certain other special criteria as set forth in s. 121.0515.~~

429       ~~(c) Effective October 1, 1999, "special risk member" means~~  
430 ~~a member of the Florida Retirement System who is designated as a~~  
431 ~~special risk member by the division in accordance with s.~~  
432 ~~121.0515. Such member must be employed as a law enforcement~~  
433 ~~officer, a firefighter, a correctional officer, an emergency~~  
434 ~~medical technician, or a paramedic and must meet certain other~~  
435 ~~special criteria as set forth in s. 121.0515.~~

20112100er

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

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

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

449 ~~(f) Effective August 1, 2008, "special risk member"~~  
450 ~~includes any member who meets the special criteria for continued~~  
451 ~~membership set forth in s. 121.0515(2)(k).~~

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

453 (a) Service for which the member had credit under one of  
454 the existing systems and received a refund of his or her  
455 contributions upon termination of employment. Prior service  
456 shall also includes ~~include~~ that service ~~between December 1,~~  
457 ~~1970, and the date the system becomes noncontributory~~ for which  
458 the member had credit under the Florida Retirement System and  
459 received a refund of his or her contributions upon termination  
460 of employment.

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

464 (b) ~~Under no circumstances shall~~ Compensation for a member



20112100er

465 participating in the pension plan ~~defined benefit retirement~~  
466 ~~program~~ or the investment plan ~~Public Employee Optional~~  
467 ~~Retirement Program~~ of the Florida Retirement System may not  
468 include:

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

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

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

478 1. For members initially enrolled before July 1, 2011, the  
479 average of the 5 highest fiscal years of compensation for  
480 creditable service before ~~prior to~~ retirement, termination, or  
481 death. For in-line-of-duty disability benefits, if less than 5  
482 years of creditable service have been completed, the term  
483 "average final compensation" means the average annual  
484 compensation of the total number of years of creditable service.  
485 Each year used to calculate the in the ~~in the~~ calculation of average  
486 final compensation commences ~~shall commence~~ on July 1.

487 2. For members initially enrolled on or after July 1, 2011,  
488 the average of the 8 highest fiscal years of compensation for  
489 creditable service before retirement, termination, or death. For  
490 in-line-of-duty disability benefits, if less than 8 years of  
491 creditable service have been completed, the term means the  
492 average annual compensation of the total number of years of  
493 creditable service. Each year used to calculate average final

20112100er

494 compensation commences on July 1.

495 (b)~~(a)~~ The average final compensation includes ~~shall~~  
496 ~~include:~~

497 1. Accumulated annual leave payments, not to exceed 500  
498 hours; and

499 2. All payments defined as compensation in subsection (22).

500 (c)~~(b)~~ The average final compensation does ~~shall~~ not  
501 include:

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

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

506 3. Payments for accumulated annual leave in excess of 500  
507 hours;

508 4. Bonuses as defined in subsection (47);

509 5. Third party payments made on and after July 1, 1990; or

510 6. Fringe benefits (for example, automobile allowances or  
511 housing allowances).

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

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

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

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

20112100er

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

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

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

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

531        a.1. The first day of the month the member ~~completes 6 or~~  
532 ~~more years of creditable service in the Special Risk Class and~~  
533 ~~attains age 55 and completes the years of creditable service in~~  
534 ~~the Special Risk Class equal to or greater than the years of~~  
535 ~~service required for vesting;~~

536        b.2. The first day of the month following the date the  
537 member completes 25 years of creditable service in the Special  
538 Risk Class, regardless of age; or

539        c.3. The first day of the month following the date the  
540 member completes 25 years of creditable service and attains age  
541 52, which service may include a maximum of 4 years of military  
542 service credit ~~if as long as~~ such credit is not claimed under  
543 any other system and the remaining years are in the Special Risk  
544 Class.

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

547        a. The first day of the month the member attains age 60 and  
548 completes the years of creditable service in the Special Risk  
549 Class equal to or greater than the years of service required for  
550 vesting;

551        b. The first day of the month following the date the member

20112100er

552 completes 30 years of creditable service in the Special Risk  
553 Class, regardless of age; or

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

559  
560 "Normal retirement age" is attained on the "normal retirement  
561 date."

562 (38) "Continuous service" means creditable service as a  
563 member, beginning with the first day of employment with an  
564 employer covered under a state-administered retirement system  
565 consolidated herein and continuing for as long as the member  
566 remains in an employer-employee relationship with an employer  
567 covered under this chapter. An absence of 1 calendar month or  
568 more from an employer's payroll shall be considered a break in  
569 continuous service, except for periods of absence during which  
570 an employer-employee relationship continues to exist and such  
571 period of absence is creditable under this chapter or under one  
572 of the existing systems consolidated herein. However, a law  
573 enforcement officer as defined in s. 121.0515(3)~~(2)~~(a) who was a  
574 member of a state-administered retirement system under chapter  
575 122 or chapter 321 and who resigned and was subsequently  
576 reemployed in a law enforcement position within 12 calendar  
577 months of such resignation by an employer under such state-  
578 administered retirement system shall be deemed to have not  
579 experienced a break in service. Further, with respect to a  
580 state-employed law enforcement officer who meets the criteria

20112100er

581 specified in s. 121.0515(3)~~(2)~~(a), if the absence from the  
582 employer's payroll is the result of a "layoff" as defined in s.  
583 110.107 or a resignation to run for an elected office that meets  
584 the criteria specified in s. 121.0515(3)~~(2)~~(a), no break in  
585 continuous service shall be deemed to have occurred if the  
586 member is reemployed as a state law enforcement officer or is  
587 elected to an office which meets the criteria specified in s.  
588 121.0515(3)~~(2)~~(a) within 12 calendar months after the date of  
589 the layoff or resignation, notwithstanding the fact that such  
590 period of layoff or resignation is not creditable service under  
591 this chapter. A withdrawal of contributions will constitute a  
592 break in service. Continuous service also includes past service  
593 purchased under this chapter, provided such service is  
594 continuous within this definition and the rules established by  
595 the administrator. The administrator may establish  
596 administrative rules and procedures for applying this definition  
597 to creditable service authorized under this chapter. Any  
598 correctional officer, as defined in s. 943.10, whose  
599 participation in the state-administered retirement system is  
600 terminated due to the transfer of a county detention facility  
601 through a contractual agreement with a private entity pursuant  
602 to s. 951.062, shall be deemed an employee with continuous  
603 service in the Special Risk Class, provided return to employment  
604 with the former employer takes place within 3 years due to  
605 contract termination or the officer is employed by a covered  
606 employer in a special risk position within 1 year after his or  
607 her initial termination of employment by such transfer of its  
608 detention facilities to the private entity.

609 (39) (a) "Termination" occurs, except as provided in

20112100er

610 paragraph (b), when a member ceases all employment relationships  
611 with participating employers ~~an employer~~, however:

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

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

630 (b) "Termination" for a member electing to participate in  
631 the Deferred Retirement Option Program occurs when the program  
632 participant ceases all employment relationships with  
633 participating employers ~~an employer~~ in accordance with s.  
634 121.091(13), however:

635 1. For termination dates occurring before July 1, 2010, if  
636 the member ~~participant~~ is employed by any such employer within  
637 the next calendar month, termination will be deemed not to have  
638 occurred, except as provided in s. 121.091(13)(b)4.c. A leave of

20112100er

639 absence shall constitute a continuation of the employment  
640 relationship.

641 2. For termination dates occurring on or after July 1,  
642 2010, if the member ~~participant~~ becomes employed by any such  
643 employer within the next 6 calendar months, termination will be  
644 deemed not to have occurred, except as provided in s.  
645 121.091(13)(b)4.c. A leave of absence constitutes a continuation  
646 of the employment relationship.

647 (c) Effective July 1, 2011, "termination" for a member  
648 receiving a refund of employee contributions occurs when a  
649 member ceases all employment relationships with participating  
650 employers for 3 calendar months. A leave of absence constitutes  
651 a continuation of the employment relationship.

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

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

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

20112100er

668           2. Any member not employed in a regularly established  
669 position on July 1, 2001, shall be deemed vested upon completion  
670 of 6 years of creditable service ~~if, provided that~~ such member  
671 is employed in a covered position for at least 1 work year after  
672 July 1, 2001. However, a ~~no~~ member is not ~~shall be~~ required to  
673 complete more years of creditable service than would have been  
674 required for that member to vest under retirement laws in effect  
675 before July 1, 2001.

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

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

682           (55) "Benefit" means any pension payment, lump-sum or  
683 periodic, to a member, retiree, or beneficiary, based partially  
684 or entirely on employer contributions or employee contributions,  
685 if applicable.

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

688           Section 7. Paragraphs (b) and (c) of subsection (2) and  
689 subsection (3) of section 121.051, Florida Statutes, are amended  
690 to read:

691           121.051 Participation in the system.—

692           (2) OPTIONAL PARTICIPATION.—

693           (b)1. The governing body of any municipality, metropolitan  
694 planning organization, or special district in the state may  
695 elect to participate in the Florida Retirement System upon  
696 proper application to the administrator and may cover all ~~or any~~



20112100er

697 of its units as approved by the Secretary of Health and Human  
698 Services and the administrator. The department shall adopt rules  
699 establishing procedures ~~provisions~~ for the submission of  
700 documents necessary for such application. Before ~~Prior to~~ being  
701 approved for participation in the ~~Florida Retirement~~ system, the  
702 governing body of a ~~any such~~ municipality, metropolitan planning  
703 organization, or special district that has a local retirement  
704 system must ~~shall~~ submit to the administrator a certified  
705 financial statement showing the condition of the local  
706 retirement system ~~as of a date~~ within 3 months before ~~prior to~~  
707 the proposed effective date of membership in the Florida  
708 Retirement System. The statement must be certified by a  
709 recognized accounting firm that is independent of the local  
710 retirement system. All required documents necessary for  
711 extending Florida Retirement System coverage must be received by  
712 the department for consideration at least 15 days before ~~prior~~  
713 ~~to~~ the proposed effective date of coverage. If the municipality,  
714 metropolitan planning organization, or special district does not  
715 comply with this requirement, the department may require that  
716 the effective date of coverage be changed.

717 2. A municipality ~~Any city~~, metropolitan planning  
718 organization, or special district that has an existing  
719 retirement system covering the employees in the units that are  
720 to be brought under the Florida Retirement System may  
721 participate only after holding a referendum in which all  
722 employees in the affected units have the right to participate.  
723 Only those employees electing coverage under the Florida  
724 Retirement System by affirmative vote in the ~~said~~ referendum are  
725 ~~shall be~~ eligible for coverage under this chapter, and those not

20112100er

726 participating or electing not to be covered by the Florida  
727 Retirement System shall remain in their present systems and are  
728 ~~shall not be~~ eligible for coverage under this chapter. After the  
729 referendum is held, all future employees are ~~shall be~~ compulsory  
730 members of the Florida Retirement System.

731 3. At the time of joining the Florida Retirement System,  
732 the governing body of a municipality ~~any city~~, metropolitan  
733 planning organization, or special district complying with  
734 subparagraph 1. may elect to provide, or not provide, benefits  
735 based on past service of officers and employees as described in  
736 s. 121.081(1). However, if such employer elects to provide past  
737 service benefits, such benefits must be provided for all  
738 officers and employees of its covered group.

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

744 5. Subject to ~~the conditions set forth in~~ subparagraph 6.,  
745 the governing body of a ~~any~~ hospital licensed under chapter 395  
746 which is governed by the board of a special district as defined  
747 in s. 189.403~~(1)~~ or by the board of trustees of a public health  
748 trust created under s. 154.07, hereinafter referred to as  
749 "hospital district," and which participates in the Florida  
750 Retirement System, may elect to cease participation in the  
751 system with regard to future employees in accordance with the  
752 following procedure:

753 a. No more than 30 days and at least 7 days before adopting  
754 a resolution to partially withdraw from the ~~Florida Retirement~~

20112100er

755 system and establish an alternative retirement plan for future  
756 employees, a public hearing must be held on the proposed  
757 withdrawal and proposed alternative plan.

758 b. From 7 to 15 days before such hearing, notice of intent  
759 to withdraw, specifying the time and place of the hearing, must  
760 be provided in writing to employees of the hospital district  
761 proposing partial withdrawal and must be published in a  
762 newspaper of general circulation in the area affected, as  
763 provided by ss. 50.011-50.031. Proof of publication must ~~of such~~  
764 ~~notice shall~~ be submitted to the Department of Management  
765 Services.

766 c. The governing body of a ~~any~~ hospital district seeking to  
767 partially withdraw from the system must, before such hearing,  
768 have an actuarial report prepared and certified by an enrolled  
769 actuary, as defined in s. 112.625~~(3)~~, illustrating the cost to  
770 the hospital district of providing, through the retirement plan  
771 that the hospital district is to adopt, benefits for new  
772 employees comparable to those provided under the ~~Florida~~  
773 ~~Retirement~~ system.

774 d. Upon meeting all applicable requirements of this  
775 subparagraph, and subject to ~~the conditions set forth in~~  
776 subparagraph 6., partial withdrawal from the system and adoption  
777 of the alternative retirement plan may be accomplished by  
778 resolution duly adopted by the hospital district board. The  
779 hospital district board must provide written notice of such  
780 withdrawal to the division by mailing a copy of the resolution  
781 to the division, postmarked by ~~no later than~~ December 15, 1995.  
782 The withdrawal shall take effect January 1, 1996.

783 6. Following the adoption of a resolution under sub-

20112100er

784 subparagraph 5.d., all employees of the withdrawing hospital  
785 district who were members of ~~participants in the Florida~~  
786 ~~Retirement~~ system before ~~prior to~~ January 1, 1996, shall remain  
787 as members of ~~participants in~~ the system for as long as they are  
788 employees of the hospital district, and all rights, duties, and  
789 obligations between the hospital district, the system, and the  
790 employees ~~shall~~ remain in full force and effect. Any employee  
791 who is hired or appointed on or after January 1, 1996, may not  
792 participate in the ~~Florida Retirement~~ system, and the  
793 withdrawing hospital district has ~~shall have~~ no obligation to  
794 the system with respect to such employees.

795 (c) Employees of public community colleges or charter  
796 technical career centers sponsored by public community colleges,  
797 designated in s. 1000.21(3), who are members of the Regular  
798 Class of the Florida Retirement System and who comply with the  
799 criteria set forth in this paragraph and s. 1012.875 may, in  
800 lieu of participating in the Florida Retirement System, elect to  
801 withdraw from the system altogether and participate in the State  
802 Community College System Optional Retirement Program provided by  
803 the employing agency under s. 1012.875.

804 1.a. Through June 30, 2001, the cost to the employer for  
805 benefits under the optional retirement program ~~such annuity~~  
806 equals the normal cost portion of the employer retirement  
807 contribution which would be required if the employee were a  
808 member of the pension plan's Regular Class ~~defined benefit~~  
809 ~~program~~, plus the portion of the contribution rate required by  
810 s. 112.363(8) which would otherwise be assigned to the Retiree  
811 Health Insurance Subsidy Trust Fund.

812 b. Effective July 1, 2001, through June 30, 2011, each

20112100er

813 employer shall contribute on behalf of each member of  
814 ~~participant in~~ the optional program an amount equal to 10.43  
815 percent of the employee's ~~participant's~~ gross monthly  
816 compensation. The employer shall deduct an amount for the  
817 administration of the program.

818 c. Effective July 1, 2011, each member shall contribute an  
819 amount equal to the employee contribution required under s.  
820 121.71(3). The employer shall contribute on behalf of each  
821 program member an amount equal to the difference between 10.43  
822 percent of the employee's gross monthly compensation and the  
823 employee's required contribution based on the employee's gross  
824 monthly compensation.

825 d. The employer shall contribute an additional amount to  
826 the Florida Retirement System Trust Fund equal to the unfunded  
827 actuarial accrued liability portion of the Regular Class  
828 contribution rate.

829 2. The decision to participate in the ~~an~~ optional  
830 retirement program is irrevocable as long as the employee holds  
831 a position eligible for participation, except as provided in  
832 subparagraph 3. Any service creditable under the Florida  
833 Retirement System is retained after the member withdraws from  
834 the system; however, additional service credit in the system may  
835 not be earned while a member of the optional retirement program.

836 3. An employee who has elected to participate in the  
837 optional retirement program shall have one opportunity, at the  
838 employee's discretion, to transfer from the optional retirement  
839 program to the pension plan ~~defined benefit program~~ of the  
840 Florida Retirement System or to the investment plan established  
841 under part II of this chapter ~~Public Employee Optional~~

20112100er

842 ~~Retirement Program~~, subject to the terms of the applicable  
843 optional retirement program contracts.

844 a. If the employee chooses to move to the investment plan  
845 ~~Public Employee Optional Retirement Program~~, any contributions,  
846 interest, and earnings creditable to the employee under the  
847 ~~State Community College System~~ optional retirement program are  
848 retained by the employee in the ~~State Community College System~~  
849 optional retirement program, and the applicable provisions of s.  
850 121.4501(4) govern the election.

851 b. If the employee chooses to move to the pension plan  
852 ~~defined benefit program~~ of the Florida Retirement System, the  
853 employee shall receive service credit equal to his or her years  
854 of service under the ~~State Community College System~~ optional  
855 retirement program.

856 (I) The cost for such credit is the amount representing the  
857 present value of the employee's accumulated benefit obligation  
858 for the affected period of service. The cost shall be calculated  
859 as if the benefit commencement occurs on the first date the  
860 employee becomes eligible for unreduced benefits, using the  
861 discount rate and other relevant actuarial assumptions that were  
862 used to value the Florida Retirement System Pension ~~defined~~  
863 ~~benefit~~ Plan liabilities in the most recent actuarial valuation.  
864 The calculation must include any service already maintained  
865 under the pension ~~defined benefit~~ plan in addition to the years  
866 under the ~~State Community College System~~ optional retirement  
867 program. The present value of any service already maintained  
868 must be applied as a credit to total cost resulting from the  
869 calculation. The division shall ensure that the transfer sum is  
870 prepared using a formula and methodology certified by an

20112100er

871 enrolled actuary.

872 (II) The employee must transfer from his or her ~~State~~  
873 ~~Community College System~~ optional retirement program account and  
874 from other employee moneys as necessary, a sum representing the  
875 present value of the employee's accumulated benefit obligation  
876 immediately following the time of such movement, determined  
877 assuming that attained service equals the sum of service in the  
878 pension plan ~~defined benefit program~~ and service in the ~~State~~  
879 ~~Community College System~~ optional retirement program.

880 4. Participation in the optional retirement program is  
881 limited to employees who satisfy the following eligibility  
882 criteria:

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

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

890 (I) Instructional; or

891 (II) Executive Management, Instructional Management, or  
892 Institutional Management and the, ~~if a~~ community college  
893 determines that recruiting to fill a vacancy in the position is  
894 to be conducted in the national or regional market, and the  
895 duties and responsibilities of the position include the  
896 formulation, interpretation, or implementation of policies, or  
897 the performance of functions that are unique or specialized  
898 within higher education and that frequently support the mission  
899 of the community college.

20112100er

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

903 5. Members of Participants in the program are subject to  
904 the same reemployment limitations, renewed membership  
905 provisions, and forfeiture provisions ~~as are~~ applicable to  
906 regular members of the Florida Retirement System under ss.  
907 121.091(9), 121.122, and 121.091(5), respectively. A member  
908 ~~participant~~ who receives a program distribution funded by  
909 employer and required employee contributions is ~~shall be~~ deemed  
910 to be retired from a state-administered retirement system if the  
911 member participant is subsequently employed with an employer  
912 that participates in the Florida Retirement System.

913 6. Eligible community college employees are compulsory  
914 members of the Florida Retirement System until, pursuant to s.  
915 1012.875, a written election to withdraw from the system and  
916 participate in the ~~State Community College System~~ optional  
917 retirement program is filed with the program administrator and  
918 received by the division.

919 a. A community college employee whose program eligibility  
920 results from initial employment shall ~~must~~ be enrolled in the  
921 ~~State Community College System~~ optional retirement program  
922 retroactive to the first day of eligible employment. The  
923 employer and employee retirement contributions paid through the  
924 month of the employee plan change shall be transferred to the  
925 community college to the employee's optional program account,  
926 and, effective the first day of the next month, the employer  
927 shall pay the applicable contributions based upon subparagraph  
928 1.



20112100er

929           b. A community college employee whose program eligibility  
930 is due to the subsequent designation of the employee's position  
931 as one of those specified in subparagraph 4., or due to the  
932 employee's appointment, promotion, transfer, or reclassification  
933 to a position specified in subparagraph 4., must be enrolled in  
934 the program on the first day of the first full calendar month  
935 that such change in status becomes effective. The employer and  
936 employee retirement contributions paid from the effective date  
937 through the month of the employee plan change must be  
938 transferred to the community college to the employee's optional  
939 program account, and, effective the first day of the next month,  
940 the employer shall pay the applicable contributions based upon  
941 subparagraph 1.

942           7. Effective July 1, 2003, through December 31, 2008, any  
943 member participant of the ~~State Community College System~~  
944 optional retirement program who has service credit in the  
945 pension ~~defined benefit~~ plan of the Florida Retirement System  
946 for the period between his or her first eligibility to transfer  
947 from the pension ~~defined benefit~~ plan to the optional retirement  
948 program and the actual date of transfer may, during employment,  
949 transfer to the optional retirement program a sum representing  
950 the present value of the accumulated benefit obligation under  
951 the defined benefit retirement program for the period of service  
952 credit. Upon transfer, all service credit previously earned  
953 under the pension plan ~~defined benefit program of the Florida~~  
954 ~~Retirement System~~ during this period is nullified for purposes  
955 of entitlement to a future benefit under the pension plan  
956 ~~defined benefit program of the Florida Retirement System.~~

957           (3) SOCIAL SECURITY COVERAGE.—Social security coverage

20112100er

958 shall be provided for all officers and employees who become  
959 members under ~~the provisions of~~ subsection (1) or subsection  
960 (2). Any modification of the present agreement with the Social  
961 Security Administration, or referendum required under the Social  
962 Security Act, for the purpose of providing social security  
963 coverage for any member shall be requested by the state agency  
964 in compliance with the applicable provisions of the Social  
965 Security Act governing such coverage. However, retroactive  
966 social security coverage for service before ~~prior to~~ December 1,  
967 1970, with the employer may ~~shall~~ not be provided for a ~~any~~  
968 member who was not covered under the agreement as of November  
969 30, 1970. The employer-paid employee contributions specified in  
970 s. 121.71(3) are subject to taxes imposed under the Federal  
971 Insurance Contributions Act, 26 U.S.C. ss. 3101-3128.

972 Section 8. Section 121.0515, Florida Statutes, is amended  
973 to read:

974 121.0515 Special Risk Class ~~membership~~.—

975 (1) ESTABLISHMENT OF CLASS ~~LEGISLATIVE INTENT~~.—A separate  
976 ~~In creating the Special Risk~~ class of membership within the  
977 Florida Retirement System, to be known as the "Special Risk  
978 Class," is established ~~it is the intent and purpose of the~~  
979 ~~Legislature~~ to recognize that persons employed in certain  
980 categories of law enforcement, firefighting, criminal detention,  
981 and emergency medical care positions are required as one of the  
982 essential functions of their positions to perform work that is  
983 physically demanding or arduous, or work that requires  
984 extraordinary agility and mental acuity, and that such persons,  
985 because of diminishing physical and mental faculties, may find  
986 that they are not able, without risk to the health and safety of

20112100er

987 themselves, the public, or their coworkers, to continue  
988 performing such duties and thus enjoy the full career and  
989 retirement benefits enjoyed by persons employed in other  
990 membership classes ~~positions~~ and that, if they find it  
991 necessary, due to the physical and mental limitations of their  
992 age, to retire at an earlier age and usually with less service,  
993 they will suffer an economic deprivation therefrom. To address  
994 ~~Therefore, as a means of recognizing~~ the peculiar and special  
995 problems of this class of employees, ~~it is the intent and~~  
996 ~~purpose of the Legislature to establish~~ a class of retirement  
997 membership is established that awards more retirement credit per  
998 year of service than that awarded to other employees; however,  
999 nothing contained herein shall require ineligibility for Special  
1000 Risk Class membership upon reaching age 55.

1001 (2) MEMBERSHIP.—

1002 (a) Until October 1, 1978, "special risk member" means any  
1003 officer or employee whose application is approved by the  
1004 administrator and who receives salary payments for work  
1005 performed as a peace officer; law enforcement officer; police  
1006 officer; highway patrol officer; custodial employee at a  
1007 correctional or detention facility; correctional agency employee  
1008 whose duties and responsibilities involve direct contact with  
1009 inmates, but excluding secretarial and clerical employees;  
1010 firefighter; or an employee in any other job in the field of law  
1011 enforcement or fire protection if the duties of such person are  
1012 certified as hazardous by his or her employer.

1013 (b) Effective October 1, 1978, through September 30, 1999,  
1014 "special risk member" means a member of the Florida Retirement  
1015 System who is designated as a special risk member by the

20112100er

1016 division in accordance with this section. Such member must be  
1017 employed as a law enforcement officer, a firefighter, or a  
1018 correctional officer and must meet certain other special  
1019 criteria as set forth in this section.

1020 (c) Effective October 1, 1999, "special risk member" means  
1021 a member of the Florida Retirement System who is designated as a  
1022 special risk member by the division in accordance with this  
1023 section. Such member must be employed as a law enforcement  
1024 officer, a firefighter, a correctional officer, an emergency  
1025 medical technician, or a paramedic and must meet certain other  
1026 special criteria as set forth in this section.

1027 (d) Effective January 1, 2001, "special risk member"  
1028 includes:

1029 1. Any member who is employed as a community-based  
1030 correctional probation officer and meets the special criteria  
1031 set forth in paragraph (3) (e).

1032 2. Any professional health care bargaining unit or non-unit  
1033 member who is employed by the Department of Corrections or the  
1034 Department of Children and Family Services and meets the special  
1035 criteria set forth in paragraph (3) (f).

1036 (e) Effective July 1, 2001, "special risk member" includes  
1037 any member who is employed as a youth custody officer by the  
1038 Department of Juvenile Justice and meets the special criteria  
1039 set forth in paragraph (3) (g).

1040 (f) Effective October 1, 2005, through June 30, 2008, the  
1041 member must be employed by a law enforcement agency or medical  
1042 examiner's office in a forensic discipline and meet the special  
1043 criteria set forth in paragraph (3) (h).

1044 (g) Effective July 1, 2008, the member must be employed by

20112100er

1045 the Department of Law Enforcement in the crime laboratory or by  
1046 the Division of State Fire Marshal in the forensic laboratory  
1047 and meet the special criteria set forth in paragraph (3) (i).

1048 (h) Effective July 1, 2008, the member must be employed by  
1049 a local government law enforcement agency or medical examiner's  
1050 office and meet the special criteria set forth in paragraph  
1051 (3) (j).

1052 (i) Effective August 1, 2008, "special risk member"  
1053 includes any member who meets the special criteria for continued  
1054 membership set forth in paragraph (3) (k).

1055 (3)-(2) CRITERIA.-A member, to be designated as a special  
1056 risk member, must meet the following criteria:

1057 (a) Effective October 1, 1978, the member must be employed  
1058 as a law enforcement officer and be certified, or required to be  
1059 certified, in compliance with s. 943.1395; however, sheriffs and  
1060 elected police chiefs are ~~shall be~~ excluded from meeting the  
1061 certification requirements of this paragraph. In addition, the  
1062 member's duties and responsibilities must include the pursuit,  
1063 apprehension, and arrest of law violators or suspected law  
1064 violators; or as of July 1, 1982, the member must be an active  
1065 member of a bomb disposal unit whose primary responsibility is  
1066 the location, handling, and disposal of explosive devices; or  
1067 the member must be the supervisor or command officer of a member  
1068 or members who have such responsibilities. ~~;~~ ~~provided, however,~~  
1069 Administrative support personnel, including, but not limited to,  
1070 those whose primary duties and responsibilities are in  
1071 accounting, purchasing, legal, and personnel, are ~~shall not be~~  
1072 included;

1073 (b) Effective October 1, 1978, the member must be employed

20112100er

1074 as a firefighter and be certified, or required to be certified,  
1075 in compliance with s. 633.35 and be employed solely within the  
1076 fire department of a local government employer or an agency of  
1077 state government with firefighting responsibilities. In  
1078 addition, the member's duties and responsibilities must include  
1079 on-the-scene fighting of fires; as of October 1, 2001, fire  
1080 prevention, or firefighter training; as of October 1, 2001,  
1081 direct supervision of firefighting units, fire prevention, or  
1082 firefighter training; or as of July 1, 2001, aerial firefighting  
1083 surveillance performed by fixed-wing aircraft pilots employed by  
1084 the Division of Forestry of the Department of Agriculture and  
1085 Consumer Services; or the member must be the supervisor or  
1086 command officer of a member or members who have such  
1087 responsibilities. ~~; provided, however,~~ Administrative support  
1088 personnel, including, but not limited to, those whose primary  
1089 duties and responsibilities are in accounting, purchasing,  
1090 legal, and personnel, are shall not be included. ~~and further~~  
1091 ~~provided that~~ All periods of creditable service in fire  
1092 prevention or firefighter training, or as the supervisor or  
1093 command officer of a member or members who have such  
1094 responsibilities, and for which the employer paid the special  
1095 risk contribution rate, are shall be included;

1096 (c) Effective October 1, 1978, the member must be employed  
1097 as a correctional officer and be certified, or required to be  
1098 certified, in compliance with s. 943.1395. In addition, the  
1099 member's primary duties and responsibilities must be the  
1100 custody, and physical restraint when necessary, of prisoners or  
1101 inmates within a prison, jail, or other criminal detention  
1102 facility, or while on work detail outside the facility, or while

20112100er

1103 being transported; or as of July 1, 1984, the member must be the  
1104 supervisor or command officer of a member or members who have  
1105 such responsibilities.~~;~~ ~~provided, however,~~ Administrative  
1106 support personnel, including, but not limited to, those whose  
1107 primary duties and responsibilities are in accounting,  
1108 purchasing, legal, and personnel, are ~~shall~~ not be included;  
1109 however, wardens and assistant wardens, as defined by rule, are  
1110 included ~~shall participate in the Special Risk Class;~~

1111 (d) Effective October 1, 1999, the member must be employed  
1112 by a licensed Advance Life Support (ALS) or Basic Life Support  
1113 (BLS) employer as an emergency medical technician or a paramedic  
1114 and be certified in compliance with s. 401.27. In addition, the  
1115 member's primary duties and responsibilities must include on-  
1116 the-scene emergency medical care or as of October 1, 2001,  
1117 direct supervision of emergency medical technicians or  
1118 paramedics, or the member must be the supervisor or command  
1119 officer of one or more members who have such responsibility.  
1120 ~~However,~~ Administrative support personnel, including, but not  
1121 limited to, those whose primary responsibilities are in  
1122 accounting, purchasing, legal, and personnel, are ~~shall~~ not be  
1123 included;

1124 (e) Effective January 1, 2001, the member must be employed  
1125 as a community-based correctional probation officer and be  
1126 certified, or required to be certified, in compliance with s.  
1127 943.1395. In addition, the member's primary duties and  
1128 responsibilities must be the supervised custody, surveillance,  
1129 control, investigation, and counseling of assigned inmates,  
1130 probationers, parolees, or community controllees within the  
1131 community; or the member must be the supervisor of a member or

20112100er

1132 members who have such responsibilities. Administrative support  
1133 personnel, including, but not limited to, those whose primary  
1134 duties and responsibilities are in accounting, purchasing, legal  
1135 services, and personnel management, are ~~shall not be~~ included;  
1136 however, probation and parole circuit and deputy circuit  
1137 administrators are included ~~shall participate in the Special~~  
1138 ~~Risk Class~~;

1139 (f) Effective January 1, 2001, the member must be employed  
1140 in one of the following classes and must spend at least 75  
1141 percent of his or her time performing duties which involve  
1142 contact with patients or inmates in a correctional or forensic  
1143 facility or institution:

- 1144 1. Dietitian (class codes 5203 and 5204);
- 1145 2. Public health nutrition consultant (class code 5224);
- 1146 3. Psychological specialist (class codes 5230 and 5231);
- 1147 4. Psychologist (class code 5234);
- 1148 5. Senior psychologist (class codes 5237 and 5238);
- 1149 6. Regional mental health consultant (class code 5240);
- 1150 7. Psychological Services Director-DCF (class code 5242);
- 1151 8. Pharmacist (class codes 5245 and 5246);
- 1152 9. Senior pharmacist (class codes 5248 and 5249);
- 1153 10. Dentist (class code 5266);
- 1154 11. Senior dentist (class code 5269);
- 1155 12. Registered nurse (class codes 5290 and 5291);
- 1156 13. Senior registered nurse (class codes 5292 and 5293);
- 1157 14. Registered nurse specialist (class codes 5294 and  
1158 5295);
- 1159 15. Clinical associate (class codes 5298 and 5299);
- 1160 16. Advanced registered nurse practitioner (class codes



20112100er

1161 5297 and 5300);  
1162 17. Advanced registered nurse practitioner specialist  
1163 (class codes 5304 and 5305);  
1164 18. Registered nurse supervisor (class codes 5306 and  
1165 5307);  
1166 19. Senior registered nurse supervisor (class codes 5308  
1167 and 5309);  
1168 20. Registered nursing consultant (class codes 5312 and  
1169 5313);  
1170 21. Quality management program supervisor (class code  
1171 5314);  
1172 22. Executive nursing director (class codes 5320 and 5321);  
1173 23. Speech and hearing therapist (class code 5406); or  
1174 24. Pharmacy manager (class code 5251);  
1175 (g) Effective July 1, 2001, the member must be employed as  
1176 a youth custody officer and be certified, or required to be  
1177 certified, in compliance with s. 943.1395. In addition, the  
1178 member's primary duties and responsibilities must be the  
1179 supervised custody, surveillance, control, investigation,  
1180 apprehension, arrest, and counseling of assigned juveniles  
1181 within the community;  
1182 (h) Effective October 1, 2005, through June 30, 2008, the  
1183 member must be employed by a law enforcement agency or medical  
1184 examiner's office in a forensic discipline recognized by the  
1185 International Association for Identification and must qualify  
1186 for active membership in the International Association for  
1187 Identification. The member's primary duties and responsibilities  
1188 must include the collection, examination, preservation,  
1189 documentation, preparation, or analysis of physical evidence or

20112100er

1190 testimony, or both, or the member must be the direct supervisor,  
1191 quality management supervisor, or command officer of one or more  
1192 individuals with such responsibility. Administrative support  
1193 personnel, including, but not limited to, those whose primary  
1194 responsibilities are clerical or in accounting, purchasing,  
1195 legal, and personnel, are ~~shall~~ not be included;

1196 (i) Effective July 1, 2008, the member must be employed by  
1197 the Department of Law Enforcement in the crime laboratory or by  
1198 the Division of State Fire Marshal in the forensic laboratory in  
1199 one of the following classes:

- 1200 1. Forensic technologist (class code 8459);
- 1201 2. Crime laboratory technician (class code 8461);
- 1202 3. Crime laboratory analyst (class code 8463);
- 1203 4. Senior crime laboratory analyst (class code 8464);
- 1204 5. Crime laboratory analyst supervisor (class code 8466);
- 1205 6. Forensic chief (class code 9602); or
- 1206 7. Forensic services quality manager (class code 9603);

1207 (j) Effective July 1, 2008, the member must be employed by  
1208 a local government law enforcement agency or medical examiner's  
1209 office and must spend at least 65 percent of his or her time  
1210 performing duties that involve the collection, examination,  
1211 preservation, documentation, preparation, or analysis of human  
1212 tissues or fluids or physical evidence having potential  
1213 biological, chemical, or radiological hazard or contamination,  
1214 or use chemicals, processes, or materials that may have  
1215 carcinogenic or health-damaging properties in the analysis of  
1216 such evidence, or the member must be the direct supervisor of  
1217 one or more individuals having such responsibility. If a special  
1218 risk member changes to another position within the same agency,

20112100er

1219 he or she must submit a complete application as provided in  
1220 paragraph (4)~~(3)~~(a); or

1221 (k) The member must have already qualified for and be  
1222 actively participating in special risk membership under  
1223 paragraph (a), paragraph (b), or paragraph (c), must have  
1224 suffered a qualifying injury as defined in this paragraph, must  
1225 not be receiving disability retirement benefits as provided in  
1226 s. 121.091(4), and must satisfy the requirements of this  
1227 paragraph.

1228 1. The ability to qualify for the class of membership  
1229 defined in paragraph (2) (f) occurs ~~s. 121.021(15) (f) shall occur~~  
1230 when two licensed medical physicians, one of whom is a primary  
1231 treating physician of the member, certify the existence of the  
1232 physical injury and medical condition that constitute a  
1233 qualifying injury as defined in this paragraph and that the  
1234 member has reached maximum medical improvement after August 1,  
1235 2008. The certifications from the licensed medical physicians  
1236 must include, at a minimum, that the injury to the special risk  
1237 member has resulted in a physical loss, or loss of use, of at  
1238 least two of the following: left arm, right arm, left leg, or  
1239 right leg; and:

1240 a. That this physical loss or loss of use is total and  
1241 permanent, except in the event that the loss of use is due to a  
1242 physical injury to the member's brain, in which event the loss  
1243 of use is permanent with at least 75-percent loss of motor  
1244 function with respect to each arm or leg affected.

1245 b. That this physical loss or loss of use renders the  
1246 member physically unable to perform the essential job functions  
1247 of his or her special risk position.

20112100er

1248 c. That, notwithstanding this physical loss or loss of use,  
1249 the individual is able to perform the essential job functions  
1250 required by the member's new position, as provided in  
1251 subparagraph 3.

1252 d. That use of artificial limbs is either not possible or  
1253 does not alter the member's ability to perform the essential job  
1254 functions of the member's position.

1255 e. That the physical loss or loss of use is a direct result  
1256 of a physical injury and not a result of any mental,  
1257 psychological, or emotional injury.

1258 2. For the purposes of this paragraph, "qualifying injury"  
1259 means an injury sustained in the line of duty, as certified by  
1260 the member's employing agency, by a special risk member that  
1261 does not result in total and permanent disability as defined in  
1262 s. 121.091(4)(b). An injury is a qualifying injury if ~~when~~ the  
1263 injury is a physical injury to the member's physical body  
1264 resulting in a physical loss, or loss of use, of at least two of  
1265 the following: left arm, right arm, left leg, or right leg.  
1266 Notwithstanding any other provision of ~~anything in~~ this section  
1267 ~~to the contrary~~, an injury that would otherwise qualify as a  
1268 qualifying injury is ~~shall~~ not be considered a qualifying injury  
1269 if and when the member ceases employment with the employer for  
1270 whom he or she was providing special risk services on the date  
1271 the injury occurred.

1272 3. The new position, as described in sub-subparagraph 1.c.,  
1273 that is required for qualification as a special risk member  
1274 under this paragraph is not required to be a position with  
1275 essential job functions that entitle an individual to special  
1276 risk membership. Whether a new position as described in sub-

20112100er

1277 subparagraph 1.c. exists and is available to the special risk  
1278 member is a decision to be made solely by the employer in  
1279 accordance with its hiring practices and applicable law.

1280 4. This paragraph does not grant or create additional  
1281 rights for any individual to continued employment or to be hired  
1282 or rehired by his or her employer that are not already provided  
1283 within the Florida Statutes, the State Constitution, the  
1284 Americans with Disabilities Act, if applicable, or any other  
1285 applicable state or federal law.

1286 (4)~~(3)~~ PROCEDURE FOR DESIGNATING.—

1287 (a) Any member of the Florida Retirement System employed by  
1288 a county, municipality ~~city~~, or special district who feels that  
1289 his or her position ~~he or she~~ meets the criteria set forth in  
1290 this section for membership in the Special Risk Class may  
1291 request that his or her employer submit an application to the  
1292 department requesting that the department designate him or her  
1293 as a Special Risk member. If the employer agrees that the member  
1294 meets the requirements for Special Risk Class membership, the  
1295 employer shall submit an application to the department on ~~in~~  
1296 behalf of the employee containing a certification that the  
1297 member meets the criteria for Special Risk Class membership set  
1298 forth in this section and such other supporting documentation as  
1299 may be required by administrative rule. The department shall,  
1300 within 90 days, ~~either~~ designate or refuse to designate the  
1301 member as a special risk member. If the employer declines to  
1302 submit the member's application to the department or if the  
1303 department does not designate the member as a special risk  
1304 member, the member or the employer may appeal to the State  
1305 Retirement Commission, as provided in s. 121.23, for designation

20112100er

1306 as a special risk member. A member who receives a final  
1307 affirmative ruling pursuant to such appeal ~~for Special Risk~~  
1308 ~~membership~~ shall have Special Risk Class membership retroactive  
1309 to the date such member would have had Special Risk Class  
1310 membership had such membership been approved by the employer and  
1311 the department, as determined by the department, and the  
1312 employer contributions shall be paid in full within 1 year after  
1313 such final ruling.

1314 (b) ~~1.~~ Applying the criteria set forth in this section, the  
1315 department ~~of Management Services~~ shall specify which current  
1316 and newly created classes of positions under the uniform  
1317 classification plan established pursuant to chapter 110 entitle  
1318 the incumbents of positions in those classes to membership in  
1319 the Special Risk Class. Only employees employed in the classes  
1320 so specified shall be special risk members.

1321 2. ~~If~~ When a class is not specified by the department ~~as~~  
1322 ~~provided in subparagraph 1.~~, the employing agency may petition  
1323 the State Retirement Commission for approval in accordance with  
1324 s. 121.23.

1325 (5) ~~(4)~~ REMOVAL OF SPECIAL RISK CLASS MEMBERSHIP.—

1326 (a) Any member who is a special risk member on October 1,  
1327 1978, and who fails to meet the criteria for Special Risk Class  
1328 membership established by this section shall have his or her  
1329 special risk designation removed and thereafter shall be a  
1330 regular member and ~~shall~~ earn only regular membership credit.  
1331 The department may ~~shall have the authority to~~ review the  
1332 special risk designation of members to determine whether or not  
1333 those members continue to meet the criteria for Special Risk  
1334 Class membership.

20112100er

1335 (b) Any member who is a special risk member on July 1,  
1336 2008, and who became eligible to participate under paragraph  
1337 (3)~~(2)~~(h) but fails to meet the criteria for Special Risk Class  
1338 membership established by paragraph (3)~~(2)~~(i) or paragraph  
1339 (3)~~(2)~~(j) shall have his or her special risk designation removed  
1340 and thereafter shall be a Regular Class member and earn only  
1341 Regular Class membership credit. The department may review the  
1342 special risk designation of members to determine whether or not  
1343 those members continue to meet the criteria for Special Risk  
1344 Class membership.

1345 (6)~~(5)~~ CREDIT FOR PAST SERVICE.—A special risk member may  
1346 purchase retirement credit in the Special Risk Class based upon  
1347 past service, and may upgrade retirement credit for such past  
1348 service, to the extent of 2 percent of the member's average  
1349 monthly compensation as specified in s. 121.091(1) (a) for such  
1350 service as follows:

1351 (a) The member may purchase special risk credit for past  
1352 service with a municipality ~~city~~ or special district which has  
1353 elected to join the Florida Retirement System, or with a  
1354 participating agency to which a member's governmental unit was  
1355 transferred, merged, or consolidated as provided in s.  
1356 121.081(1) (f), if the member was employed with the municipality  
1357 ~~city~~ or special district at the time it commenced participating  
1358 in the Florida Retirement System or with the governmental unit  
1359 at the time of its transfer, merger, or consolidation with the  
1360 participating agency. The service must satisfy the criteria set  
1361 forth in subsection (3) ~~(2)~~ for Special Risk Class membership as  
1362 a law enforcement officer, firefighter, or correctional officer;  
1363 however, a ~~no~~ certificate or waiver of certificate of compliance

20112100er

1364 with s. 943.1395 or s. 633.35 is not ~~shall be~~ required for such  
1365 service.

1366 (b) Contributions for upgrading the additional special risk  
1367 credit must ~~pursuant to this subsection~~ shall be equal to the  
1368 difference in the employer and, if applicable, employee  
1369 contributions paid and the special risk percentage rate of gross  
1370 salary in effect at the time of purchase for the period being  
1371 claimed, plus interest thereon at the rate of 4 percent a year  
1372 compounded annually from the date of such service until July 1,  
1373 1975, and 6.5 percent a year thereafter until the date of  
1374 payment. This past service may be purchased by the member or by  
1375 the employer on behalf of the member.

1376 (7) ~~(6)~~ CREDIT FOR PRIOR SERVICE.—A special risk member who  
1377 has creditable service with an employer under chapter 122 or  
1378 chapter 321, or was employed as a correctional counselor with  
1379 the Department of Corrections between December 1, 1970, and  
1380 September 30, 1979, in a position that ~~which~~ satisfies the  
1381 criteria provided ~~for~~ in subsection (3) ~~(2)~~ for Special Risk  
1382 Class membership except the requirement for a certificate or  
1383 waiver of certificate, shall have those years of service counted  
1384 towards the attainment of the normal retirement date as a  
1385 special risk member under this chapter. The percentage value of  
1386 each such year of creditable service under chapter 122, chapter  
1387 321, or as a correctional counselor may ~~shall~~ not change as a  
1388 result of the application of this subsection. A special risk  
1389 member who has taken a refund of contributions for such  
1390 creditable service under chapter 122 or chapter 321 and has  
1391 reclaimed it as prior service credit under this chapter shall be  
1392 permitted to have such creditable service counted towards the



20112100er

1393 attainment of the normal retirement date for the Special Risk  
1394 Class of membership under this chapter.

1395 (8)~~(7)~~ SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS RETENTION  
1396 ~~OF SPECIAL RISK NORMAL RETIREMENT DATE.~~—

1397 (a) A special risk member who is moved or reassigned to a  
1398 nonspecial risk law enforcement, firefighting, correctional, or  
1399 emergency medical care administrative support position with the  
1400 same agency, or who is subsequently employed in such a position  
1401 within ~~with~~ any law enforcement, firefighting, correctional, or  
1402 emergency medical care agency under the Florida Retirement  
1403 System, shall participate in the Special Risk Administrative  
1404 Support Class and ~~shall~~ earn credit for such service at the same  
1405 percentage rate as that earned by a regular member.

1406 Notwithstanding ~~the provisions of~~ subsection (5) ~~(4)~~, service in  
1407 ~~such~~ an administrative support position ~~shall~~, for purposes of  
1408 s. 121.091, applies ~~apply~~ toward satisfaction of the special  
1409 risk normal retirement date, as defined in s. 121.021~~(29)(b)~~ if,  
1410 ~~provided that~~, while in such position, the member remains  
1411 certified as a law enforcement officer, firefighter,  
1412 correctional officer, emergency medical technician, or  
1413 paramedic; remains subject to reassignment at any time to a  
1414 position qualifying for special risk membership; and completes  
1415 an aggregate of the 6 or more years of service as a designated  
1416 special risk member before ~~prior to~~ retirement which is equal to  
1417 or greater than the years of service required to be vested.

1418 (b) Upon application by a member, the provisions of this  
1419 subsection ~~shall~~ apply, with respect to such member,  
1420 retroactively to October 1, 1978, if ~~provided that~~ the member  
1421 was removed from the Special Risk Class effective October 1,

20112100er

1422 1978, due to a change in special risk criteria as a result of  
1423 the enactment of chapter 78-308, Laws of Florida, or was  
1424 reassigned or employed for training or career development or to  
1425 fill a critical agency need.

1426 (c) The department shall adopt ~~such~~ rules as ~~are~~ required  
1427 to administer this subsection.

1428 (d) Notwithstanding any other provision of this subsection  
1429 ~~to the contrary~~, this subsection does not apply to any special  
1430 risk member who qualifies for continued membership pursuant to  
1431 ~~the provisions of~~ paragraph (3)~~(2)~~(k).

1432 (9)~~(8)~~ RESTORATION OF SPECIAL RISK CREDIT FOR SPECIFIED  
1433 PERIOD OF EMPLOYMENT.—A special risk member who was removed from  
1434 the Special Risk Class effective October 1978, for the sole  
1435 reason that he or she did not possess the required certificate  
1436 or temporary waiver of certificate, and who obtained  
1437 certification and was approved for Special Risk Class membership  
1438 on or before June 30, 1982, may ~~shall be permitted to~~ have  
1439 special risk credit restored for that period upon:

1440 (a) Certification by his or her employer that all  
1441 requirements for Special Risk Class membership except the  
1442 requirement for certification or temporary waiver of  
1443 certification were met; and

1444 (b) Payment of contributions equal to the difference in the  
1445 contributions that were paid during the period and the  
1446 contributions required for special risk members during that  
1447 period, plus 6.5 percent interest thereon, compounded each June  
1448 30 from date of service until date of payment.

1449  
1450 This credit may be purchased by the member or by the employer on

20112100er

1451 behalf of the member.

1452 (10)~~(9)~~ CREDIT FOR UPGRADED SERVICE.—

1453 (a) Any member of the Special Risk Class who has earned  
1454 creditable service through September 30, 1999, in another  
1455 membership class of the Florida Retirement System as an  
1456 emergency medical technician or paramedic, which service is  
1457 within the purview of the Special Risk Class, may purchase  
1458 additional retirement credit to upgrade such service to Special  
1459 Risk Class service, to the extent of the percentages of the  
1460 member's average final compensation provided in s.

1461 121.091(1)(a)2. Contributions for upgrading such service to  
1462 Special Risk Class credit must ~~under this subsection shall~~ be  
1463 equal to the difference in the contributions paid and the  
1464 Special Risk Class contribution rate as a percentage of gross  
1465 salary in effect for the period being claimed, plus interest  
1466 thereon at the rate of 6.5 percent a year, compounded annually  
1467 until the date of payment. This service credit may be purchased  
1468 by the employer on behalf of the member.

1469 (b) Any member of the Special Risk Class who has earned  
1470 creditable service through September 30, 2001, in another  
1471 membership class of the Florida Retirement System whose  
1472 responsibilities included fire prevention or firefighter  
1473 training, which service is within the purview of the Special  
1474 Risk Class, may purchase additional retirement credit to upgrade  
1475 such service to Special Risk Class service, to the extent of the  
1476 percentages of the member's average final compensation provided  
1477 in s. 121.091(1)(a)2. Contributions for upgrading such service  
1478 to Special Risk Class credit must ~~under this subsection shall~~ be  
1479 equal to the difference in the contributions paid and the

20112100er

1480 Special Risk Class contribution rate as a percentage of gross  
1481 salary in effect for the period being claimed, plus interest  
1482 thereon at the rate of 6.5 percent a year, compounded annually  
1483 until the date of payment. This service credit may be purchased  
1484 by the employer on behalf of the member.

1485 (c) Any member of the Special Risk Class who has earned  
1486 creditable service through June 30, 2008, in another membership  
1487 class of the Florida Retirement System in a position with the  
1488 Department of Law Enforcement or the Division of State Fire  
1489 Marshal and became covered by the Special Risk Class as  
1490 described in paragraph (3)~~(2)~~(i), or with a local government law  
1491 enforcement agency or medical examiner's office and became  
1492 covered by the Special Risk Class as described in paragraph  
1493 (3)~~(2)~~(j), which service is within the purview of the Special  
1494 Risk Class, and is employed in such position on or after July 1,  
1495 2008, may purchase additional retirement credit to upgrade such  
1496 service to Special Risk Class service, to the extent of the  
1497 percentages of the member's average final compensation provided  
1498 in s. 121.091(1)(a)2. The cost for such credit must ~~shall~~ be an  
1499 amount representing the actuarial accrued liability for the  
1500 difference in accrual value during the affected period of  
1501 service. The cost shall be calculated using the discount rate  
1502 and other relevant actuarial assumptions that were used to value  
1503 the Florida Retirement System Pension ~~defined benefit~~ Plan  
1504 liabilities in the most recent actuarial valuation. The division  
1505 shall ensure that the transfer sum is prepared using a formula  
1506 and methodology certified by an enrolled actuary. The cost must  
1507 be paid immediately upon notification by the division. The local  
1508 government employer may purchase the upgraded service credit on

20112100er

1509 behalf of the member if the member has been employed by that  
1510 employer for at least 3 years.

1511 Section 9. Paragraphs (a) and (d) of subsection (4),  
1512 paragraph (b) of subsection (7), and subsections (8) and (10) of  
1513 section 121.052, Florida Statutes, are amended, present  
1514 paragraph (c) of subsection (7) of that section is redesignated  
1515 as paragraph (d), and a new paragraph (c) is added to that  
1516 subsection, to read:

1517 121.052 Membership class of elected officers.—

1518 (4) PARTICIPATION BY ELECTED OFFICERS SERVING A SHORTENED  
1519 TERM DUE TO APPORTIONMENT, FEDERAL INTERVENTION, ETC.—

1520 (a) A ~~Any~~ duly elected officer whose term of office was  
1521 shortened by legislative or judicial apportionment pursuant to  
1522 ~~the provisions of~~ s. 16, Art. III of the State Constitution may,  
1523 after the term of office to which he or she was elected is  
1524 completed, pay into the Florida Retirement System Trust Fund the  
1525 amount of contributions that would have been made by the officer  
1526 or the officer's employer on his or her behalf, plus 4 percent  
1527 interest compounded annually from the date he or she left office  
1528 until July 1, 1975, and 6.5 percent interest compounded annually  
1529 thereafter, and may receive service credit for the length of  
1530 time the officer would have served if such term had not been  
1531 shortened by apportionment.

1532 (d)1. Any justice or judge, or any retired justice or judge  
1533 who retired before July 1, 1993, who has attained the age of 70  
1534 years and who is prevented under s. 8, Art. V of the State  
1535 Constitution from completing his or her term of office because  
1536 of age may elect to purchase credit for all or a portion of the  
1537 months he or she would have served during the remainder of the

20112100er

1538 term of office; however, ~~but~~ he or she may claim those months  
1539 only after the date the service would have occurred. The justice  
1540 or judge must pay into the Florida Retirement System Trust Fund  
1541 the amount of contributions that would have been made by the  
1542 employer on his or her behalf for the period of time being  
1543 claimed, plus 6.5 percent interest thereon compounded each June  
1544 30 from the date he or she left office, in order to receive  
1545 service credit in this class for the period of time being  
1546 claimed. After the date the service would have occurred, and  
1547 upon payment of the required contributions, the retirement  
1548 benefit of a retired justice or judge shall ~~will~~ be adjusted  
1549 prospectively to include the ~~this~~ additional creditable service;  
1550 however, such adjustment may be made only once.

1551 2. Any justice or judge who does not seek election to a  
1552 subsequent term of office because he or she would be prevented  
1553 under s. 8, Art. V of the State Constitution from completing  
1554 such term of office upon attaining the age of 70 years may elect  
1555 to purchase service credit for service as a temporary judge as  
1556 assigned by the court if the temporary assignment ~~follows~~  
1557 immediately follows the last full term of office served and the  
1558 purchase is limited to the number of months of service needed to  
1559 vest retirement benefits. To receive retirement credit for such  
1560 temporary service beyond termination, the justice or judge must  
1561 pay into the Florida Retirement System Trust Fund the amount of  
1562 contributions that would have been made by the justice or judge  
1563 and the employer on his or her behalf had he or she continued in  
1564 office for the period of time being claimed, plus 6.5 percent  
1565 interest thereon compounded each June 30 from the date he or she  
1566 left office.

20112100er

1567 (7) CONTRIBUTIONS.—

1568 (b) The employer paying the salary of a member of the  
1569 Elected Officers' Class shall contribute an amount as specified  
1570 in this subsection or s. 121.71, as appropriate, which shall  
1571 constitute the ~~entire~~ employer retirement contribution with  
1572 respect to such member. The employer shall also withhold one-  
1573 half of the entire contribution of the member required for  
1574 social security coverage. Effective July 1, 2011, each member of  
1575 the Elected Officers' Class shall pay employee contributions as  
1576 specified in s. 121.71.

1577 (c) If a member of the Elected Officers' Class ceases to  
1578 fill an office covered by this class for 3 calendar months for  
1579 any reason other than retirement and has not been employed in  
1580 any capacity with any participating employer for 3 calendar  
1581 months, the member may receive a refund of all contributions he  
1582 or she has made to the pension plan, subject to the restrictions  
1583 otherwise provided in this chapter. Partial refunds are not  
1584 permitted. The refund shall not include any interest earnings on  
1585 the contributions for a member of the pension plan. Employer  
1586 contributions made on behalf of the member are not refundable. A  
1587 member may not receive a refund of employee contributions if a  
1588 pending or an approved qualified domestic relations order is  
1589 filed against the member's retirement account. By obtaining a  
1590 refund of contributions, a member waives all rights under the  
1591 Florida Retirement System and the health insurance subsidy  
1592 provided under s. 112.363 to the service credit represented by  
1593 the refunded contributions, except the right to purchase his or  
1594 her prior service credit in accordance with s. 121.081(2).

1595 (8) NORMAL RETIREMENT DATE; VESTING REQUIREMENT.—A member

20112100er

1596 of the Elected Officers' Class shall have the same normal  
1597 retirement date and vesting requirement, as those terms are  
1598 defined in s. 121.021(29) and (45), for a member of the regular  
1599 class of the Florida Retirement System. Any public service  
1600 commissioner who was removed from the Elected State Officers'  
1601 Class on July 1, 1979, after attaining at least 8 years of  
1602 creditable service in that class is ~~shall be~~ considered to have  
1603 reached the normal retirement date upon attaining age 62 as  
1604 required in s. 121.021(29) (a).

1605 (10) ACCRUED SERVICE VALUE.—A member of the Elected  
1606 Officers' Class who is a Supreme Court justice, district court  
1607 of appeal judge, circuit judge, or county court judge shall  
1608 receive judicial retirement credit of 3 1/3 percent of average  
1609 final compensation, and all other members shall receive elected  
1610 officer accrual value ~~retirement credit~~ of 3 percent of average  
1611 final compensation, for each year of creditable service in such  
1612 class.

1613 Section 10. Paragraph (a) of subsection (7) of section  
1614 121.053, Florida Statutes, is amended to read:

1615 121.053 Participation in the Elected Officers' Class for  
1616 retired members.—

1617 (7) A member who is elected or appointed to an elective  
1618 office and who is participating in the Deferred Retirement  
1619 Option Program is not subject to termination as defined in s.  
1620 121.021, or reemployment limitations as provided in s.  
1621 121.091(9), until the end of his or her current term of office  
1622 or, if the officer is consecutively elected or reelected to an  
1623 elective office eligible for coverage under the Florida  
1624 Retirement System, until he or she no longer holds an elective



20112100er

1625 office, as follows:

1626 (a) At the end of the 60-month DROP period:

1627 1. The officer's DROP account may not accrue additional  
1628 monthly benefits, but does continue to earn interest as provided  
1629 in s. 121.091(13). However, an officer whose DROP participation  
1630 begins on or after July 1, 2010, may not continue to earn such  
1631 interest.

1632 2. Retirement contributions, except for unfunded actuarial  
1633 liability and health insurance subsidy contributions required in  
1634 ss. 121.71(5) and 121.76, are not required of the employer of  
1635 the elected officer and additional retirement credit may not be  
1636 earned under the Florida Retirement System.

1637 Section 11. Paragraphs (b) and (j) of subsection (1),  
1638 paragraph (b) of subsection (3), paragraph (b) of subsection  
1639 (4), and paragraphs (c), (d), and (e) of subsection (6) of  
1640 section 121.055, Florida Statutes, are amended, present  
1641 paragraph (c) of subsection (3) of that section is redesignated  
1642 as paragraph (d), and a new paragraph (c) is added to that  
1643 subsection, to read:

1644 121.055 Senior Management Service Class.—There is hereby  
1645 established a separate class of membership within the Florida  
1646 Retirement System to be known as the "Senior Management Service  
1647 Class," which shall become effective February 1, 1987.

1648 (1)

1649 (b)1. Except as provided in subparagraph 2., effective  
1650 January 1, 1990, participation in the Senior Management Service  
1651 Class is shall be compulsory for the president of each community  
1652 college, the manager of each participating municipality ~~city~~ or  
1653 county, and all appointed district school superintendents.

20112100er

1654 Effective January 1, 1994, additional positions may be  
1655 designated for inclusion in the Senior Management Service Class  
1656 if ~~of the Florida Retirement System,~~ provided that:

1657 a. Positions to be included in the class are ~~shall be~~  
1658 designated by the local agency employer. Notice of intent to  
1659 designate positions for inclusion in the class must ~~shall~~ be  
1660 published once a week for 2 consecutive weeks in a newspaper of  
1661 general circulation published in the county or counties  
1662 affected, as provided in chapter 50.

1663 b. Up to 10 nonelective full-time positions may be  
1664 designated for each local agency employer reporting to the  
1665 department ~~of Management Services;~~ for local agencies with 100  
1666 or more regularly established positions, additional nonelective  
1667 full-time positions may be designated, not to exceed 1 percent  
1668 of the regularly established positions within the agency.

1669 c. Each position added to the class must be a managerial or  
1670 policymaking position filled by an employee who is not subject  
1671 to continuing contract and serves at the pleasure of the local  
1672 agency employer without civil service protection, and who:

1673 (I) Heads an organizational unit; or

1674 (II) Has responsibility to effect or recommend personnel,  
1675 budget, expenditure, or policy decisions in his or her areas of  
1676 responsibility.

1677 2. In lieu of participation in the Senior Management  
1678 Service Class, members of the Senior Management Service Class,  
1679 pursuant to ~~the provisions of~~ subparagraph 1., may withdraw from  
1680 the Florida Retirement System altogether. The decision to  
1681 withdraw from the ~~Florida Retirement~~ system is ~~shall be~~  
1682 irrevocable ~~for~~ as long as the employee holds the ~~such a~~

20112100er

1683 position. Any service creditable under the Senior Management  
1684 Service Class shall be retained after the member withdraws from  
1685 the ~~Florida Retirement~~ system; however, additional service  
1686 credit in the Senior Management Service Class may ~~shall~~ not be  
1687 earned after such withdrawal. Such members are ~~shall~~ not be  
1688 eligible to participate in the Senior Management Service  
1689 Optional Annuity Program.

1690 3. Effective January 1, 2006, through June 30, 2006, an  
1691 employee who has withdrawn from the Florida Retirement System  
1692 under subparagraph 2. has one opportunity to elect to  
1693 participate in ~~either the~~ pension plan defined benefit program  
1694 or the investment plan ~~Public Employee Optional Retirement~~  
1695 ~~Program of the Florida Retirement System.~~

1696 a. If the employee elects to participate in the investment  
1697 plan ~~Public Employee Optional Retirement Program~~, membership  
1698 shall be prospective, and the applicable provisions of s.  
1699 121.4501(4) ~~shall~~ govern the election.

1700 b. If the employee elects to participate in the pension  
1701 plan ~~defined benefit program of the Florida Retirement System~~,  
1702 the employee shall, upon payment to the system trust fund of the  
1703 amount calculated under sub-sub-subparagraph (I), receive  
1704 service credit for prior service based upon the time during  
1705 which the employee had withdrawn from the system.

1706 (I) The cost for such credit shall be an amount  
1707 representing the actuarial accrued liability for the affected  
1708 period of service. The cost shall be calculated using the  
1709 discount rate and other relevant actuarial assumptions that were  
1710 used to value the pension ~~Florida Retirement System defined~~  
1711 ~~benefit~~ plan liabilities in the most recent actuarial valuation.

20112100er

1712 The calculation must ~~shall~~ include any service already  
1713 maintained under the pension ~~defined benefit~~ plan in addition to  
1714 the period of withdrawal. The actuarial accrued liability  
1715 attributable to any service already maintained under the pension  
1716 ~~defined benefit~~ plan shall be applied as a credit to the total  
1717 cost resulting from the calculation. The division must ~~shall~~  
1718 ensure that the transfer sum is prepared using a formula and  
1719 methodology certified by an actuary.

1720 (II) The employee must transfer a sum representing the net  
1721 cost owed for the actuarial accrued liability in sub-sub-  
1722 subparagraph (I) immediately following the time of such  
1723 movement, determined assuming that attained service equals the  
1724 sum of service in the pension plan ~~defined benefit program~~ and  
1725 the period of withdrawal.

1726 (j) Except as may otherwise be provided, a ~~any~~ member of  
1727 the Senior Management Service Class may purchase additional  
1728 retirement credit in such class for creditable service within  
1729 the purview of the Senior Management Service Class retroactive  
1730 to February 1, 1987, and may upgrade retirement credit for such  
1731 service, to the extent of 2 percent of the member's average  
1732 monthly compensation as specified in paragraph (4) (d) for such  
1733 service. Contributions for upgrading the additional Senior  
1734 Management Service credit must ~~pursuant to this paragraph shall~~  
1735 be equal to the difference in the employer and, if applicable,  
1736 employee contributions paid and the Senior Management Service  
1737 Class contribution rate as a percentage of gross salary in  
1738 effect for the period being claimed, plus interest thereon at  
1739 the rate of 6.5 percent a year, compounded annually until the  
1740 date of payment. This service credit may be purchased by the

20112100er

1741 employer on behalf of the member.

1742 (3)

1743 (b) The employer paying the salary of a member of the  
1744 Senior Management Service Class shall contribute an amount as  
1745 specified in this section or s. 121.71, as appropriate, which  
1746 shall constitute the entire employer retirement contribution  
1747 with respect to such member. The employer shall also withhold  
1748 one-half of the entire contribution of the member required for  
1749 social security coverage. Effective July 1, 2011, each member  
1750 shall pay employee contributions as specified in s. 121.71.

1751 (c) Upon termination of employment from all participating  
1752 employers for 3 calendar months for any reason other than  
1753 retirement pursuant to s. 121.021(39)(c), a member may receive a  
1754 refund of all contributions he or she has made to the pension  
1755 plan, subject to the restrictions otherwise provided in this  
1756 chapter. Partial refunds are not permitted. The refund shall not  
1757 include any interest earnings on the contributions for a member  
1758 of the pension plan. Employer contributions made on behalf of  
1759 the member are not refundable. A member may not receive a refund  
1760 of employee contributions if a pending or an approved qualified  
1761 domestic relations order is filed against the member's  
1762 retirement account. By obtaining a refund of contributions, a  
1763 member waives all rights under the Florida Retirement System and  
1764 the health insurance subsidy provided under s. 112.363 to the  
1765 service credit represented by the refunded contributions, except  
1766 the right to purchase his or her prior service credit in  
1767 accordance with s. 121.081(2).

1768 (4)

1769 (b) Service in an eligible position before ~~prior to~~

20112100er

1770 February 1, 1987, or after January 31, 1987, shall satisfy the  
1771 requirement of attaining the normal retirement date as defined  
1772 in s. 121.021(29) for a Senior Management Service Class member,  
1773 if provided the employee is a member of the Senior Management  
1774 Service Class after January 31, 1987. A member of this class who  
1775 fails to complete the 6 years of creditable service required for  
1776 vesting in an eligible position must ~~shall be required to~~  
1777 satisfy the requirements for the normal retirement date for a  
1778 regular member as provided in s. 121.021(29) and vesting as  
1779 provided in s. 121.021(45).

1780 (6)

1781 (c) *Participation.*—

1782 1. An eligible employee who is employed on or before  
1783 February 1, 1987, may elect to participate in the optional  
1784 annuity program in lieu of participating ~~participation~~ in the  
1785 Senior Management Service Class. Such election must be made in  
1786 writing and filed with the department and the personnel officer  
1787 of the employer on or before May 1, 1987. An eligible employee  
1788 who is employed on or before February 1, 1987, and who fails to  
1789 make an election to participate in the optional annuity program  
1790 by May 1, 1987, shall be deemed to have elected membership in  
1791 the Senior Management Service Class.

1792 2. Except as provided in subparagraph 6., an employee who  
1793 becomes eligible to participate in the optional annuity program  
1794 by reason of initial employment commencing after February 1,  
1795 1987, may, within 90 days after the date of commencing  
1796 employment, elect to participate in the optional annuity  
1797 program. Such election must be made in writing and filed with  
1798 the personnel officer of the employer. An eligible employee who

20112100er

1799 does not within 90 days after commencing employment elect to  
1800 participate in the optional annuity program shall be deemed to  
1801 have elected membership in the Senior Management Service Class.

1802 3. A person who is appointed to a position in the Senior  
1803 Management Service Class and who is a member of an existing  
1804 retirement system or the Special Risk or Special Risk  
1805 Administrative Support Classes of the Florida Retirement System  
1806 may elect to remain in such system or class in lieu of  
1807 participating ~~participation~~ in the Senior Management Service  
1808 Class or optional annuity program. Such election must be made in  
1809 writing and filed with the department and the personnel officer  
1810 of the employer within 90 days after ~~of~~ such appointment. An ~~Any~~  
1811 eligible employee who fails to make an election to participate  
1812 in the existing system, the Special Risk Class of the Florida  
1813 Retirement System, the Special Risk Administrative Support Class  
1814 of the Florida Retirement System, or the optional annuity  
1815 program shall be deemed to have elected membership in the Senior  
1816 Management Service Class.

1817 4. Except as provided in subparagraph 5., an employee's  
1818 election to participate in the optional annuity program is  
1819 irrevocable if the employee continues to be employed in an  
1820 eligible position and continues to meet the eligibility  
1821 requirements set forth in this paragraph.

1822 5. Effective from July 1, 2002, through September 30, 2002,  
1823 an ~~any~~ active employee in a regularly established position who  
1824 has elected to participate in the Senior Management Service  
1825 Optional Annuity Program has one opportunity to choose to move  
1826 from the Senior Management Service Optional Annuity Program to  
1827 the Florida Retirement System Pension Plan ~~System defined~~

20112100er

1828 ~~benefit program.~~

1829       a. The election must be made in writing and must be filed  
1830 with the department and the personnel officer of the employer  
1831 before October 1, 2002, or, in the case of an active employee  
1832 who is on a leave of absence on July 1, 2002, within 90 days  
1833 after the conclusion of the leave of absence. This election is  
1834 irrevocable.

1835       b. The employee shall receive service credit under the  
1836 pension plan ~~defined benefit program of the Florida Retirement~~  
1837 ~~System~~ equal to his or her years of service under the Senior  
1838 Management Service Optional Annuity Program. The cost for such  
1839 credit is the amount representing the present value of that  
1840 employee's accumulated benefit obligation for the affected  
1841 period of service.

1842       c. The employee must transfer the total accumulated  
1843 employer contributions and earnings on deposit in his or her  
1844 Senior Management Service Optional Annuity Program account. If  
1845 the transferred amount is not sufficient to pay the amount due,  
1846 the employee must pay a sum representing the remainder of the  
1847 amount due. The employee may not retain any employer  
1848 contributions or earnings ~~thereon~~ from the Senior Management  
1849 Service Optional Annuity Program account.

1850       6. A retiree of a state-administered retirement system who  
1851 is initially reemployed on or after July 1, 2010, may not renew  
1852 membership in the Senior Management Service Optional Annuity  
1853 Program.

1854       (d) *Contributions.*—

1855       1.a. Through June 30, 2001, each employer shall contribute  
1856 on behalf of each member of ~~participant in~~ the Senior Management



20112100er

1857 Service Optional Annuity Program an amount equal to the normal  
1858 cost portion of the employer retirement contribution which would  
1859 be required if the member ~~participant~~ were a Senior Management  
1860 Service Class member of the Florida Retirement System Pension  
1861 Plan ~~defined benefit program~~, plus the portion of the  
1862 contribution rate required in s. 112.363(8) that would otherwise  
1863 be assigned to the Retiree Health Insurance Subsidy Trust Fund.

1864 b. Effective July 1, 2001, through June 30, 2011, each  
1865 employer shall contribute on behalf of each member of  
1866 ~~participant in~~ the optional program an amount equal to 12.49  
1867 percent of the employee's ~~participant's~~ gross monthly  
1868 compensation.

1869 c. Effective July 1, 2011, each member of the optional  
1870 annuity program shall contribute an amount equal to the employee  
1871 contribution required under s. 121.71(3). The employer shall  
1872 contribute on behalf of such employee an amount equal to the  
1873 difference between 12.49 percent of the employee's gross monthly  
1874 compensation and the amount equal to the employee's required  
1875 contribution based on the employee's gross monthly compensation.

1876 d. The department shall deduct an amount approved by the  
1877 Legislature to provide for the administration of this program.  
1878 ~~The~~ Payment of the contributions, including contributions made  
1879 by the employee, to the optional program which is required by  
1880 ~~this subparagraph for each participant~~ shall be made by the  
1881 employer to the department, which shall forward the  
1882 contributions to the designated company or companies contracting  
1883 for payment of benefits for the member ~~participant~~ under the  
1884 program.

1885 2. Each employer shall contribute on behalf of each member

20112100er

1886 ~~of participant in~~ the Senior Management Service Optional Annuity  
1887 Program an amount equal to the unfunded actuarial accrued  
1888 liability portion of the employer contribution which would be  
1889 required for members of the Senior Management Service Class in  
1890 the Florida Retirement System. This contribution shall be paid  
1891 to the department for transfer to the Florida Retirement System  
1892 Trust Fund.

1893         3. An Optional Annuity Program Trust Fund shall be  
1894 established in the State Treasury and administered by the  
1895 department to make payments to provider companies on behalf of  
1896 the optional annuity program members ~~participants~~, and to  
1897 transfer the unfunded liability portion of the state optional  
1898 annuity program contributions to the Florida Retirement System  
1899 Trust Fund.

1900         4. Contributions required for social security by each  
1901 employer and employee ~~each participant~~, in the amount required  
1902 for social security coverage as now or hereafter may be provided  
1903 by the federal Social Security Act shall be maintained for each  
1904 member of ~~participant in~~ the Senior Management Service  
1905 retirement program and are ~~shall be~~ in addition to the  
1906 retirement contributions specified in this paragraph.

1907         5. Each member of ~~participant in~~ the Senior Management  
1908 Service Optional Annuity Program may contribute by way of salary  
1909 reduction or deduction a percentage amount of the employee's  
1910 ~~participant's~~ gross compensation not to exceed the percentage  
1911 amount contributed by the employer to the optional annuity  
1912 program. Payment of the employee's ~~participant's~~ contributions  
1913 shall be made by the employer to the department, which shall  
1914 forward the contributions to the designated company or companies

20112100er

1915 contracting for payment of benefits for the member ~~participant~~  
1916 under the program.

1917 (e) *Benefits.*—

1918 1. Benefits under the Senior Management Service Optional  
1919 Annuity Program are payable only to members of ~~participants in~~  
1920 the program, or their beneficiaries as designated by the member  
1921 ~~participant~~ in the contract with the provider company, and must  
1922 be paid by the designated company in accordance with the terms  
1923 of the annuity contract applicable to the member ~~participant~~. A  
1924 member ~~participant~~ must be terminated from all employment  
1925 relationships with Florida Retirement System employers for 3  
1926 calendar months ~~as provided in s. 121.021(39)~~ to begin receiving  
1927 the employer-funded and employee-funded benefit. The member must  
1928 meet the definition of termination in s. 121.021(39) beginning  
1929 the month after receiving a benefit, including a distribution.

1930 Benefits funded by employer and employee contributions are  
1931 payable under the terms of the contract to the member  
1932 ~~participant~~, his or her beneficiary, or his or her estate, in  
1933 addition to:

1934 a. A lump-sum payment to the beneficiary upon the death of  
1935 the member ~~participant~~;

1936 b. A cash-out of a de minimis account upon the request of a  
1937 former member ~~participant~~ who has been terminated for a minimum  
1938 of 6 calendar months from the employment that entitled him or  
1939 her to optional annuity program participation. Such cash-out  
1940 must be a complete liquidation of the account balance with that  
1941 company and is subject to the Internal Revenue Code;

1942 c. A mandatory distribution of a de minimis account of a  
1943 former member ~~participant~~ who has been terminated for a minimum

20112100er

1944 of 6 calendar months from the employment that entitled him or  
1945 her to optional annuity program participation as authorized by  
1946 the department; or

1947 d. A lump-sum direct rollover distribution whereby all  
1948 accrued benefits, plus interest and investment earnings, are  
1949 paid from the member's ~~participant's~~ account directly to the  
1950 custodian of an eligible retirement plan, as defined in s.  
1951 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
1952 member ~~participant~~.

1953 2. Under the Senior Management Service Optional Annuity  
1954 Program, benefits, including employee contributions, are not  
1955 payable for employee hardships, unforeseeable emergencies,  
1956 loans, medical expenses, educational expenses, purchase of a  
1957 principal residence, payments necessary to prevent eviction or  
1958 foreclosure on an employee's principal residence, or any other  
1959 reason before termination from all employment relationships with  
1960 participating employers for 3 calendar months.

1961 ~~3.2.~~ The benefits payable to any person under the Senior  
1962 Management Service Optional Annuity Program, and any  
1963 contribution accumulated under such program, are not subject to  
1964 assignment, execution, or attachment or to any legal process  
1965 whatsoever.

1966 ~~4.3.~~ Except as provided in subparagraph ~~5. 4.~~, a member  
1967 ~~participant~~ who terminates employment and receives a  
1968 distribution, including a rollover or trustee-to-trustee  
1969 transfer, funded by employer and required employee contributions  
1970 is ~~shall be~~ deemed to be retired from a state-administered  
1971 retirement system if the member ~~participant~~ is subsequently  
1972 employed with an employer that participates in the Florida

20112100er

1973 Retirement System.

1974 ~~5.4.~~ A member ~~participant~~ who receives optional annuity  
1975 program benefits funded by employer and employee contributions  
1976 as a mandatory distribution of a de minimis account authorized  
1977 by the department is not considered a retiree.

1978  
1979 As used in this paragraph, a "de minimis account" means an  
1980 account with a provider company containing employer and employee  
1981 contributions and accumulated earnings of not more than \$5,000  
1982 made under this chapter.

1983 Section 12. Subsection (2) of section 121.061, Florida  
1984 Statutes, is amended to read:

1985 121.061 Funding.—

1986 (2) (a) Should any employer other than a state employer fail  
1987 to make the retirement and social security contributions, both  
1988 member and employer contributions, required by this chapter,  
1989 then, upon request by the administrator, the Department of  
1990 Revenue or the Department of Financial Services, as the case may  
1991 be, shall deduct the amount owed by the employer from any funds  
1992 to be distributed by it to the county, municipality ~~city~~,  
1993 metropolitan planning organization, special district, or  
1994 consolidated form of government. The amounts so deducted shall  
1995 be transferred to the administrator for further distribution to  
1996 the trust funds in accordance with this chapter.

1997 (b) Should any employer for whom the municipality ~~city~~ or  
1998 county tax collector collects taxes, fail to make the retirement  
1999 and social security contributions required by this chapter, the  
2000 tax collector, at the request of the administrator and upon  
2001 receipt of a certificate from the administrator showing the

20112100er

2002 amount owed by the employer, shall deduct the amount so  
2003 certified from any taxes collected for the employer and remit  
2004 the amount to the administrator for further distribution to the  
2005 trust funds in accordance with this chapter.

2006 (c) The governing body of each county, municipality ~~city~~,  
2007 metropolitan planning organization, special district, or  
2008 consolidated form of government participating under this chapter  
2009 or the administrator, acting individually or jointly, is hereby  
2010 authorized to file and maintain an action in the courts of the  
2011 state to require any employer to remit any retirement or social  
2012 security member contributions or employer matching payments due  
2013 the retirement or social security trust funds under the  
2014 provisions of this chapter.

2015 (d) Should the income of any constitutional fee officer, in  
2016 any year, be insufficient to make the matching payments required  
2017 by this chapter, the board of county commissioners shall provide  
2018 such fee officer sufficient funds to make these required  
2019 payments when due.

2020 Section 13. Subsections (2) and (5) and paragraph (c) of  
2021 subsection (6) of section 121.071, Florida Statutes, are  
2022 amended, present paragraph (d) of subsection (6) of that section  
2023 is redesignated as paragraph (e), a new paragraph (d) is added  
2024 to that subsection, and subsection (7) is added to that section,  
2025 to read:

2026 121.071 Contributions.—Contributions to the system shall be  
2027 made as follows:

2028 (2) (a) Effective January 1, 1975, or October 1, 1975, as  
2029 applicable, and through June 30, 2011, each employer shall make  
2030 ~~accomplish~~ the contribution required by subsection (1) by a

20112100er

2031 procedure in which no employee's gross salary ~~is shall be~~  
2032 reduced. Effective July 1, 2011, each employer and employee  
2033 shall pay retirement contributions as specified in s. 121.71.

2034 (b) Upon termination of employment from all participating  
2035 employers for 3 calendar months for any reason other than  
2036 retirement pursuant to s. 121.021(39)(c), a member may receive  
2037 ~~shall be entitled to a full refund of all the~~ contributions he  
2038 or she has made to the pension prior or subsequent to  
2039 ~~participation in the noncontributory plan,~~ subject to the  
2040 restrictions otherwise provided in this chapter. Partial refunds  
2041 are not permitted. The refund may not include any interest  
2042 earnings on the contributions for a member of the pension plan.  
2043 Employer contributions made on behalf of the member are not  
2044 refundable. A member may not receive a refund of employee  
2045 contributions if a pending or an approved qualified domestic  
2046 relations order is filed against his or her retirement account.  
2047 By obtaining a refund of contributions, a member waives all  
2048 rights under the Florida Retirement System and the health  
2049 insurance subsidy to the service credit represented by the  
2050 refunded contributions, except the right to purchase his or her  
2051 prior service credit in accordance with s. 121.081(2).

2052 (5) Contributions made in accordance with subsections (1),  
2053 (2), (3), and (4), ~~and~~ s. 121.71 shall be paid ~~by the employer~~  
2054 into the system trust funds in accordance with rules adopted by  
2055 the administrator pursuant to chapter 120, except as may be  
2056 otherwise specified herein. Effective July 1, 2002,  
2057 contributions paid under subsections (1) and (4) and  
2058 accompanying payroll data are due and payable no later than the  
2059 5th working day of the month immediately following the month

20112100er

2060 during which the payroll period ended.

2061 (6)

2062 (c) By obtaining a refund of contributions, a member waives  
2063 all rights under the Florida Retirement System and the health  
2064 insurance subsidy as provided in s. 112.363 to the service  
2065 credit represented by the refunded contributions, except the  
2066 right to purchase his or her prior service credit in accordance  
2067 with s. 121.081(2).

2068 (d) If a member or former member of the pension plan  
2069 receives an invalid refund from the Florida Retirement System  
2070 Trust Fund, such person must repay the full amount of the  
2071 invalid refund, plus interest at 6.5 percent compounded annually  
2072 on each June 30 from the date of refund until full payment is  
2073 made to the trust fund. The invalid refund must be repaid before  
2074 the member retires or, if applicable, transfers to the  
2075 investment plan.

2076 (7) Before termination of employment, benefits, including  
2077 employee contributions, are not payable under the pension plan  
2078 for employee hardships, unforeseeable emergencies, loans,  
2079 medical expenses, educational expenses, purchase of a principal  
2080 residence, payments necessary to prevent eviction or foreclosure  
2081 on an employee's principal residence, or any other reason before  
2082 termination from all employment relationships with participating  
2083 employers.

2084 Section 14. Paragraphs (b) and (c) of subsection (1) and  
2085 subsection (2) of section 121.081, Florida Statutes, are amended  
2086 to read:

2087 121.081 Past service; prior service; contributions.—  
2088 Conditions under which past service or prior service may be



20112100er

2089 claimed and credited are:

2090 (1)

2091 (b) Past service earned after January 1, 1975, may be  
2092 claimed by officers or employees of a municipality, metropolitan  
2093 planning organization, charter school, charter technical career  
2094 center, or special district who become a covered group under  
2095 this system. The governing body of a covered group may elect to  
2096 provide benefits for past service earned after January 1, 1975,  
2097 in accordance with this chapter.~~7~~ and The cost for such past  
2098 service is established by applying the following formula: The  
2099 employer shall contribute an amount equal to the employer  
2100 contribution rate in effect at the time the service was earned  
2101 and, if applicable, the employee contribution rate, multiplied  
2102 by the employee's gross salary for each year of past service  
2103 claimed, plus 6.5 percent ~~6.5 percent~~ interest thereon,  
2104 compounded annually, for ~~figured on~~ each year of past service,  
2105 with interest compounded from date of annual salary earned until  
2106 date of payment.

2107 (c) If an employer joins the Florida Retirement System and  
2108 does ~~Should the employer~~ not elect to provide past service for  
2109 the member at the time of joining, ~~then~~ the member may claim and  
2110 pay for the service as provided in same, ~~based on~~ paragraphs (a)  
2111 and (b).

2112 (2) Prior service, as defined in s. 121.021~~(19)~~, may be  
2113 claimed as creditable service under the Florida Retirement  
2114 System after a member has been reemployed for 1 complete year of  
2115 creditable service ~~within a period of 12 consecutive months~~,  
2116 except as provided in paragraph (c). Service performed as a  
2117 member participant of the optional retirement program for the

20112100er

2118 State University System under s. 121.35 or the Senior Management  
2119 Service Optional Annuity Program under s. 121.055 may be used to  
2120 satisfy the reemployment requirement of 1 complete year of  
2121 creditable service. The member shall not be permitted to make  
2122 any contributions for prior service until after completion of  
2123 the 1 year of creditable service. If a member does not wish to  
2124 claim credit for all of his or her prior service, the service  
2125 the member claims must be the most recent period of service. The  
2126 required contributions for claiming the various types of prior  
2127 service are:

2128 (a) For prior service performed before ~~prior to~~ the date  
2129 the system becomes noncontributory for the member and for which  
2130 the member had credit under one of the existing retirement  
2131 systems and received a refund of contributions upon termination  
2132 of employment, the member shall contribute 4 percent of all  
2133 salary received during the period being claimed, plus 4 percent  
2134 ~~4 percent~~ interest compounded annually from date of refund until  
2135 July 1, 1975, and 6.5 percent ~~6.5 percent~~ interest compounded  
2136 annually thereafter, until full payment is made to the Florida  
2137 Retirement System Trust Fund, and ~~shall~~ receive credit in the  
2138 Regular Class. A member who elected to transfer to the Florida  
2139 Retirement System from an existing system may receive credit for  
2140 prior service under the existing system if he or she was  
2141 eligible under the existing system to claim the prior service at  
2142 the time of the transfer. Contributions for such prior service  
2143 shall be determined by the applicable provisions of the system  
2144 under which the prior service is claimed and shall be paid by  
2145 the member, with matching contributions paid by the employer at  
2146 the time the service was performed. Effective July 1, 1978, the

20112100er

2147 account of a person who terminated under s. 238.05(3) may not be  
2148 charged interest for contributions that remained on deposit in  
2149 the Annuity Savings Trust Fund established under chapter 238,  
2150 upon retirement under this chapter or chapter 238.

2151 (b) For prior service performed before ~~prior to~~ the date  
2152 the system becomes noncontributory for the member and for which  
2153 the member had credit under the Florida Retirement System and  
2154 received a refund of contributions upon termination of  
2155 employment, the member shall contribute at the rate that was  
2156 required of him or her during the period of service being  
2157 claimed, on all salary received during such period, plus 4  
2158 percent ~~4-percent~~ interest compounded annually from date of  
2159 refund until July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest  
2160 compounded annually thereafter, until the full payment is made  
2161 to the Florida Retirement System Trust Fund, and ~~shall~~ receive  
2162 credit in the membership class in which the member participated  
2163 during the period claimed.

2164 (c) For prior service as defined in s. 121.021(19) (b) and  
2165 (c) during which no contributions were made because the member  
2166 did not participate in a retirement system, the member shall  
2167 contribute 14.38 percent of all salary received during such  
2168 period or 14.38 percent of \$100 per month during such period,  
2169 whichever is greater, plus 4 percent ~~4-percent~~ interest  
2170 compounded annually from the first year of service claimed until  
2171 July 1, 1975, and 6.5 percent ~~6.5-percent~~ interest compounded  
2172 annually thereafter, until full payment is made to the  
2173 Retirement Trust Fund, and shall receive credit in the Regular  
2174 Class.

2175 (d) In order to claim credit for prior service as defined

20112100er

2176 in s. 121.021(19)(d) for which no retirement contributions were  
2177 paid during the period of such service, the member shall  
2178 contribute the total employee and employer contributions which  
2179 were required to be made to the Highway Patrol Pension Trust  
2180 Fund, as provided in chapter 321, during the period claimed,  
2181 plus 4 percent ~~4-percent~~ interest compounded annually from the  
2182 first year of service until July 1, 1975, and 6.5 percent ~~6.5-~~  
2183 ~~percent~~ interest compounded annually thereafter, until full  
2184 payment is made to the Retirement Trust Fund. However, any  
2185 governmental entity that ~~which~~ employed such member may elect to  
2186 pay up to 50 percent of the contributions and interest required  
2187 to purchase the ~~this~~ prior service credit. The service shall be  
2188 credited in accordance with ~~the provisions of~~ the Highway Patrol  
2189 Pension Plan in effect during the period claimed unless the  
2190 member terminated and withdrew his or her retirement  
2191 contributions and was thereafter enrolled in the State and  
2192 County Officers and Employees' Retirement System or the Florida  
2193 Retirement System, in which case the service shall be credited  
2194 as Regular Class service.

2195 (e) For service performed under the Florida Retirement  
2196 System after December 1, 1970, which ~~that~~ was never reported to  
2197 the division or the department due to error, retirement credit  
2198 may be claimed by a member of the Florida Retirement System. The  
2199 department shall adopt rules establishing criteria for claiming  
2200 such credit and detailing the documentation required to  
2201 substantiate the error.

2202 (f) For prior service performed on or after July 1, 2011,  
2203 for which the member had credit under the Florida Retirement  
2204 System and received a refund of contributions 3 calendar months

20112100er

2205 after termination of employment, the member shall contribute at  
2206 the rate that was required during the period of service being  
2207 claimed, plus 6.5 percent interest, compounded annually on each  
2208 June 30 from date of refund until the full payment is made to  
2209 the Florida Retirement System Trust Fund, and receive credit in  
2210 the membership class in which the member participated during the  
2211 period claimed.

2212 (g)~~(f)~~ The employer may not be required to make  
2213 contributions for prior service credit for any member, except  
2214 that the employer shall pay the employer portion of  
2215 contributions for any legislator who elects to withdraw from the  
2216 Florida Retirement System and later rejoins the system and pays  
2217 any employee contributions required in accordance with s.  
2218 121.052(3)(d).

2219 Section 15. Paragraphs (a) and (b) of subsection (3),  
2220 paragraphs (a) and (j) of subsection (4), paragraphs (a) and (c)  
2221 of subsection (5), paragraph (d) of subsection (9), paragraphs  
2222 (a) and (c) of subsection (13), and paragraph (d) of subsection  
2223 (14) of section 121.091, Florida Statutes, are amended to read:

2224 121.091 Benefits payable under the system.—Benefits may not  
2225 be paid under this section unless the member has terminated  
2226 employment as provided in s. 121.021(39)(a) or begun  
2227 participation in the Deferred Retirement Option Program as  
2228 provided in subsection (13), and a proper application has been  
2229 filed in the manner prescribed by the department. The department  
2230 may cancel an application for retirement benefits when the  
2231 member or beneficiary fails to timely provide the information  
2232 and documents required by this chapter and the department's  
2233 rules. The department shall adopt rules establishing procedures

20112100er

2234 for application for retirement benefits and for the cancellation  
2235 of such application when the required information or documents  
2236 are not received.

2237 (3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or her  
2238 early retirement date, the member shall receive an immediate  
2239 monthly benefit that shall begin to accrue on the first day of  
2240 the month of the retirement date and be payable on the last day  
2241 of that month and each month thereafter during his or her  
2242 lifetime. Such benefit shall be calculated as follows:

2243 (a) For a member initially enrolled:

2244 1. Before July 1, 2011, the amount of each monthly payment  
2245 shall be computed in the same manner as for a normal retirement  
2246 benefit, in accordance with subsection (1), but shall be based  
2247 on the member's average monthly compensation and creditable  
2248 service as of the member's early retirement date. The benefit so  
2249 computed shall be reduced by five-twelfths of 1 percent for each  
2250 complete month by which the early retirement date precedes the  
2251 normal retirement date of age 62 for a member of the Regular  
2252 Class, Senior Management Service Class, or the Elected Officers'  
2253 Class, and age 55 for a member of the Special Risk Class, or age  
2254 52 if a Special Risk member has completed 25 years of creditable  
2255 service in accordance with s. 121.021(29)(b)1.c.

2256 ~~121.021(29)(b)3.~~

2257 2. On or after July 1, 2011, the amount of each monthly  
2258 payment shall be computed in the same manner as for a normal  
2259 retirement benefit, in accordance with subsection (1), but shall  
2260 be based on the member's average monthly compensation and  
2261 creditable service as of the member's early retirement date. The  
2262 benefit so computed shall be reduced by five-twelfths of 1

20112100er

2263 percent for each complete month by which the early retirement  
2264 date precedes the normal retirement date of age 65 for a member  
2265 of the Regular Class, Senior Management Service Class, or the  
2266 Elected Officers' Class, and age 60 for a member of the Special  
2267 Risk Class, or age 57 if a special risk member has completed 30  
2268 years of creditable service in accordance with s.  
2269 121.021(29)(b)2.c.

2270 (b) If the employment of a member is terminated by reason  
2271 of death within 10 years before normal retirement as described  
2272 in s. 121.021(29)(a)1.b. or s. 121.021(29)(a)2.b. subsequent to  
2273 the completion of 20 years of creditable service, the monthly  
2274 benefit payable to the member's beneficiary shall be calculated  
2275 in accordance with subsection (1), but must ~~shall~~ be based on  
2276 average monthly compensation and creditable service as of the  
2277 date of death. The benefit so computed shall be reduced by five-  
2278 twelfths of 1 percent for each complete month by which death  
2279 precedes the normal retirement date specified above or the date  
2280 on which the member would have attained the normal retirement  
2281 date ~~30 years of creditable service~~ had he or she survived and  
2282 continued his or her employment, whichever provides a higher  
2283 benefit.

2284 (4) DISABILITY RETIREMENT BENEFIT.—

2285 (a) *Disability retirement; entitlement and effective date.*—

2286 1.a. A member who becomes totally and permanently disabled,  
2287 as defined in paragraph (b), after completing 5 years of  
2288 creditable service, or a member who becomes totally and  
2289 permanently disabled in the line of duty regardless of service,  
2290 is ~~shall be~~ entitled to a monthly disability benefit; except  
2291 that any member with less than 5 years of creditable service on

20112100er

2292 July 1, 1980, or any person who becomes a member of the Florida  
2293 Retirement System on or after such date must have completed 10  
2294 years of creditable service before ~~prior to~~ becoming totally and  
2295 permanently disabled in order to receive disability retirement  
2296 benefits for any disability which occurs other than in the line  
2297 of duty. However, if a member employed on July 1, 1980, who has  
2298 ~~with~~ less than 5 years of creditable service as of that date,  
2299 becomes totally and permanently disabled after completing 5  
2300 years of creditable service and is found not to have attained  
2301 fully insured status for benefits under the federal Social  
2302 Security Act, such member is ~~shall be~~ entitled to a monthly  
2303 disability benefit.

2304 b. Effective July 1, 2001, a member of the pension plan  
2305 ~~defined benefit retirement program~~ who becomes totally and  
2306 permanently disabled, as defined in paragraph (b), after  
2307 completing 8 years of creditable service, or a member who  
2308 becomes totally and permanently disabled in the line of duty  
2309 regardless of service, is ~~shall be~~ entitled to a monthly  
2310 disability benefit.

2311 2. If the division has received from the employer the  
2312 required documentation of the member's termination of  
2313 employment, the effective retirement date for a member who  
2314 applies and is approved for disability retirement shall be  
2315 established by rule of the division.

2316 3. For a member who is receiving Workers' Compensation  
2317 payments, the effective disability retirement date may not  
2318 precede the date the member reaches Maximum Medical Improvement  
2319 (MMI), unless the member terminates employment before ~~prior to~~  
2320 reaching MMI.



20112100er

2321 (j) *Disability retirement of justice or judge by order of*  
2322 *Supreme Court.—*

2323 1. If a member is a justice of the Supreme Court, judge of  
2324 a district court of appeal, circuit judge, or judge of a county  
2325 court who has served for the number of years equal to, or  
2326 greater than, the vesting requirement in s. 121.021(45) ~~6 years~~  
2327 ~~or more~~ as an elected constitutional judicial officer, including  
2328 service as a judicial officer, in any court abolished pursuant  
2329 to Art. V of the State Constitution, and who is retired for  
2330 disability by order of the Supreme Court upon recommendation of  
2331 the Judicial Qualifications Commission pursuant to ~~the~~  
2332 ~~provisions of~~ Art. V of the State Constitution, the member's  
2333 Option 1 monthly benefit as provided in subparagraph (6)(a)1.  
2334 may shall not be less than two-thirds of his or her monthly  
2335 compensation as of the member's disability retirement date. Such  
2336 a member may alternatively elect to receive a disability  
2337 retirement benefit under any other option as provided in  
2338 paragraph (6)(a).

2339 2. Should any justice or judge who is a member of the  
2340 Florida Retirement System be retired for disability by order of  
2341 the Supreme Court upon recommendation of the Judicial  
2342 Qualifications Commission pursuant to ~~the provisions of~~ Art. V  
2343 of the State Constitution, then all contributions to his or her  
2344 account and all contributions made on his or her behalf by the  
2345 employer shall be transferred to and deposited in the General  
2346 Revenue Fund of the state, and there is hereby appropriated  
2347 annually out of the General Revenue Fund, to be paid into the  
2348 Florida Retirement System Fund, an amount necessary to pay the  
2349 benefits of all justices and judges retired from the Florida

20112100er

2350 Retirement System pursuant to Art. V of the State Constitution.

2351 (5) TERMINATION BENEFITS.—A member whose employment is  
2352 terminated prior to retirement retains membership rights to  
2353 previously earned member-noncontributory service credit, and to  
2354 member-contributory service credit, if the member leaves the  
2355 member contributions on deposit in his or her retirement  
2356 account. If a terminated member receives a refund of member  
2357 contributions, such member may reinstate membership rights to  
2358 the previously earned service credit represented by the refund  
2359 by completing 1 year of creditable service and repaying the  
2360 refunded member contributions, plus interest.

2361 (a) A member whose employment is terminated for any reason  
2362 other than death or retirement before ~~prior to~~ becoming vested  
2363 is entitled to the return of his or her accumulated  
2364 contributions as of the date of termination. Effective July 1,  
2365 2011, upon termination of employment from all participating  
2366 employers for 3 calendar months as defined in s. 121.021(39)(c)  
2367 for any reason other than retirement, a member may receive a  
2368 refund of all contributions he or she has made to the pension  
2369 plan, subject to the restrictions otherwise provided in this  
2370 chapter. The refund may be received as a lump-sum payment, a  
2371 rollover to a qualified plan, or a combination of these methods.  
2372 Partial refunds are not permitted. The refund may not include  
2373 any interest earnings on the contributions for a member of the  
2374 pension plan. Employer contributions made on behalf of the  
2375 member are not refundable. A member may not receive a refund of  
2376 employee contributions if a pending or an approved qualified  
2377 domestic relations order is filed against his or her retirement  
2378 account. By obtaining a refund of contributions, a member waives

20112100er

2379 all rights under the Florida Retirement System and the health  
2380 insurance subsidy to the service credit represented by the  
2381 refunded contributions, except the right to purchase his or her  
2382 prior service credit in accordance with s. 121.081(2).

2383 (c) In lieu of the deferred monthly benefit provided in  
2384 paragraph (b), the terminated member may elect to receive a  
2385 lump-sum amount equal to his or her accumulated contributions as  
2386 of the date of termination. Effective July 1, 2011, upon  
2387 termination of employment from all participating employers for 3  
2388 calendar months as defined in s. 121.021(39)(c) for any reason  
2389 other than retirement, a member may receive a refund of all  
2390 contributions he or she has made to the pension plan, subject to  
2391 the restrictions otherwise provided in this chapter. Partial  
2392 refunds are not permitted. The refund may not include any  
2393 interest earnings on the contributions for a member of the  
2394 pension plan. Employer contributions made on behalf of the  
2395 member are not refundable. A member may not receive a refund of  
2396 employee contributions if a pending or an approved qualified  
2397 domestic relations order is filed against his or her retirement  
2398 account. By obtaining a refund of contributions, a member waives  
2399 all rights under the Florida Retirement System and the health  
2400 insurance subsidy to the service credit represented by the  
2401 refunded contributions, except the right to purchase his or her  
2402 prior service credit in accordance with s. 121.081(2).

2403 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

2404 (d) ~~The provisions of~~ This subsection applies ~~apply~~ to  
2405 retirees, as defined in s. 121.4501(2), of the Florida  
2406 Retirement System Investment Plan ~~Public Employee Optional~~  
2407 ~~Retirement Program~~, subject to the following conditions:

20112100er

2408 1. A retiree ~~The retirees~~ may not be reemployed with an  
2409 employer participating in the Florida Retirement System until  
2410 such person has been retired for 6 calendar months.

2411 2. A retiree employed in violation of this subsection and  
2412 an employer that employs or appoints such person are jointly and  
2413 severally liable for reimbursement of any benefits paid to the  
2414 retirement trust fund from which the benefits were paid,  
2415 ~~including the Retirement System Trust Fund and the Public~~  
2416 ~~Employee Optional Retirement Program Trust Fund, as appropriate.~~  
2417 The employer must have a written statement from the retiree that  
2418 he or she is not retired from a state-administered retirement  
2419 system.

2420 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and  
2421 subject to this section, the Deferred Retirement Option Program,  
2422 hereinafter referred to as DROP, is a program under which an  
2423 eligible member of the Florida Retirement System may elect to  
2424 participate, deferring receipt of retirement benefits while  
2425 continuing employment with his or her Florida Retirement System  
2426 employer. The deferred monthly benefits shall accrue in the  
2427 Florida Retirement System on behalf of the member ~~participant~~,  
2428 plus interest compounded monthly, for the specified period of  
2429 the DROP participation, as provided in paragraph (c). Upon  
2430 termination of employment, the member ~~participant~~ shall receive  
2431 the total DROP benefits and begin to receive the previously  
2432 determined normal retirement benefits. Participation in the DROP  
2433 does not guarantee employment for the specified period of DROP.  
2434 Participation in DROP by an eligible member beyond the initial  
2435 60-month period as authorized in this subsection shall be on an  
2436 annual contractual basis for all participants.

20112100er

2437 (a) *Eligibility of member to participate in DROP.*—All  
2438 active Florida Retirement System members in a regularly  
2439 established position, and all active members of the Teachers'  
2440 Retirement System established in chapter 238 or the State and  
2441 County Officers' and Employees' Retirement System established in  
2442 chapter 122, which are consolidated within the Florida  
2443 Retirement System under s. 121.011, are eligible to elect  
2444 participation in DROP if:

2445 1. The member is not a renewed member under s. 121.122 or a  
2446 member of the State Community College System Optional Retirement  
2447 Program under s. 121.051, the Senior Management Service Optional  
2448 Annuity Program under s. 121.055, or the optional retirement  
2449 program for the State University System under s. 121.35.

2450 2. Except as provided in subparagraph 6., election to  
2451 participate is made within 12 months immediately following the  
2452 date on which the member first reaches normal retirement date,  
2453 or, for a member who reaches normal retirement date based on  
2454 service before he or she reaches age 62, or age 55 for Special  
2455 Risk Class members, election to participate may be deferred to  
2456 the 12 months immediately following the date the member attains  
2457 age 57, or age 52 for Special Risk Class members. A member who  
2458 delays DROP participation during the 12-month period immediately  
2459 following his or her maximum DROP deferral date, except as  
2460 provided in subparagraph 6., loses a month of DROP participation  
2461 for each month delayed. A member who fails to make an election  
2462 within the 12-month limitation period forfeits all rights to  
2463 participate in DROP. The member shall advise his or her employer  
2464 and the division in writing of the date DROP begins. The  
2465 beginning date may be subsequent to the 12-month election period

20112100er

2466 but must be within the original 60-month participation period  
2467 provided in subparagraph (b)1. When establishing eligibility ~~of~~  
2468 ~~the member~~ to participate in DROP, the member may elect to  
2469 include or exclude any optional service credit purchased by the  
2470 member from the total service used to establish the normal  
2471 retirement date. A member who has dual normal retirement dates  
2472 is eligible to elect to participate in DROP after attaining  
2473 normal retirement date in either class.

2474 3. The employer of a member electing to participate in  
2475 DROP, or employers if dually employed, shall acknowledge in  
2476 writing to the division the date the member's participation in  
2477 DROP begins and the date the member's employment and DROP  
2478 participation terminates ~~will terminate~~.

2479 4. Simultaneous employment of a member participant by  
2480 additional Florida Retirement System employers subsequent to the  
2481 commencement of a member's participation in DROP is permissible  
2482 if such employers acknowledge in writing a DROP termination date  
2483 no later than the member's participant's existing termination  
2484 date or the maximum participation period provided in  
2485 subparagraph (b)1.

2486 5. A member ~~DROP participant~~ may change employers while  
2487 participating in DROP, subject to the following:

2488 a. A change of employment takes ~~must take~~ place without a  
2489 break in service so that the member receives salary for each  
2490 month of continuous DROP participation. If a member receives no  
2491 salary during a month, DROP participation ceases ~~shall cease~~  
2492 unless the employer verifies a continuation of the employment  
2493 relationship for such member participant pursuant to s.

2494 121.021(39)(b).

20112100er

2495           b. The member ~~Such participant~~ and new employer shall  
2496 notify the division of the identity of the new employer on forms  
2497 required by the division.

2498           c. The new employer acknowledges ~~shall acknowledge~~, in  
2499 writing, the member's ~~participant's~~ DROP termination date, which  
2500 may be extended but not beyond the maximum participation period  
2501 provided in subparagraph (b)1., acknowledges ~~shall acknowledge~~  
2502 liability for any additional retirement contributions and  
2503 interest required if the member ~~participant~~ fails to timely  
2504 terminate employment, and is subject to the adjustment required  
2505 in sub-subparagraph (c)5.d.

2506           6. Effective July 1, 2001, for instructional personnel as  
2507 defined in s. 1012.01(2), election to participate in DROP may be  
2508 made at any time following the date on which the member first  
2509 reaches normal retirement date. The member shall advise his or  
2510 her employer and the division in writing of the date on which  
2511 DROP begins. When establishing eligibility of the member to  
2512 participate in DROP for the 60-month participation period  
2513 provided in subparagraph (b)1., the member may elect to include  
2514 or exclude any optional service credit purchased by the member  
2515 from the total service used to establish the normal retirement  
2516 date. A member who has dual normal retirement dates is eligible  
2517 to elect to participate in either class.

2518           (c) *Benefits payable under DROP.*—

2519           1. Effective on the date of DROP participation, the  
2520 member's initial normal monthly benefit, including creditable  
2521 service, optional form of payment, and average final  
2522 compensation, and the effective date of retirement are fixed.  
2523 The beneficiary established under the Florida Retirement System

20112100er

2524 is the beneficiary eligible to receive any DROP benefits payable  
2525 if the DROP participant dies before completing the period of  
2526 DROP participation. If a joint annuitant predeceases the member,  
2527 the member may name a beneficiary to receive accumulated DROP  
2528 benefits payable. The retirement benefit, the annual cost of  
2529 living adjustments provided in s. 121.101, and interest accrue  
2530 monthly in the Florida Retirement System Trust Fund. For members  
2531 whose DROP participation begins:

2532 a. Before July 1, 2011, the interest accrues at an  
2533 effective annual rate of 6.5 percent compounded monthly, on the  
2534 prior month's accumulated ending balance, up to the month of  
2535 termination or death, except as provided in s. 121.053(7).

2536 b. On or after July 1, 2011, the interest accrues at an  
2537 effective annual rate of 1.3 percent, compounded monthly, on the  
2538 prior month's accumulated ending balance, up to the month of  
2539 termination or death, except as provided in s. 121.053(7).

2540 2. Each employee who elects to participate in DROP may  
2541 elect to receive a lump-sum payment for accrued annual leave  
2542 earned in accordance with agency policy upon beginning  
2543 participation in DROP. The accumulated leave payment certified  
2544 to the division upon commencement of DROP shall be included in  
2545 the calculation of the member's average final compensation. The  
2546 employee electing the lump-sum payment is not eligible to  
2547 receive a second lump-sum payment upon termination, except to  
2548 the extent the employee has earned additional annual leave  
2549 which, combined with the original payment, does not exceed the  
2550 maximum lump-sum payment allowed by the employing agency's  
2551 policy or rules. An early lump-sum payment shall be based on the  
2552 hourly wage of the employee at the time he or she begins



20112100er

2553 participation in DROP. If the member elects to wait and receive  
2554 a lump-sum payment upon termination of DROP and termination of  
2555 employment with the employer, any accumulated leave payment made  
2556 at that time may not be included in the member's retirement  
2557 benefit, which was determined and fixed by law when the employee  
2558 elected to participate in DROP.

2559 3. The effective date of DROP participation and the  
2560 effective date of retirement of a DROP participant shall be the  
2561 first day of the month selected by the member to begin  
2562 participation in DROP, provided such date is properly  
2563 established, with the written confirmation of the employer, and  
2564 the approval of the division, on forms required by the division.

2565 4. Normal retirement benefits and any interest ~~shall~~  
2566 continue to accrue in DROP until the established termination  
2567 date of DROP or until the member participant terminates  
2568 employment or dies before ~~prior to~~ such date, except as provided  
2569 in s. 121.053(7). Although individual DROP accounts may ~~shall~~  
2570 not be established, a separate accounting of each member's  
2571 ~~participant's~~ accrued benefits under DROP shall be calculated  
2572 and provided to the member participants.

2573 5. At the conclusion of the member's participation in the  
2574 ~~participant's~~ DROP, the division shall distribute the member's  
2575 ~~participant's~~ total accumulated DROP benefits, subject to the  
2576 following:

2577 a. The division shall receive verification by the member's  
2578 ~~participant's~~ employer or employers that the member participant  
2579 has terminated all employment relationships as provided in s.  
2580 121.021(39).

2581 b. The terminated DROP participant or, if deceased, the

20112100er

2582 member's ~~participant's~~ named beneficiary, shall elect on forms  
2583 provided by the division to receive payment of the DROP benefits  
2584 in accordance with one of the options listed below. If a member  
2585 ~~participant~~ or beneficiary fails to elect a method of payment  
2586 within 60 days after termination of DROP, the division shall pay  
2587 a lump sum as provided in sub-sub-subparagraph (I).

2588 (I) Lump sum.—All accrued DROP benefits, plus interest,  
2589 less withholding taxes remitted to the Internal Revenue Service,  
2590 shall be paid to the DROP participant or surviving beneficiary.

2591 (II) Direct rollover.—All accrued DROP benefits, plus  
2592 interest, shall be paid from DROP directly to the custodian of  
2593 an eligible retirement plan as defined in s. 402(c)(8)(B) of the  
2594 Internal Revenue Code. However, in the case of an eligible  
2595 rollover distribution to the surviving spouse of a deceased  
2596 member participant, an eligible retirement plan is an individual  
2597 retirement account or an individual retirement annuity as  
2598 described in s. 402(c)(9) of the Internal Revenue Code.

2599 (III) Partial lump sum.—A portion of the accrued DROP  
2600 benefits shall be paid to DROP participant or surviving spouse,  
2601 less withholding taxes remitted to the Internal Revenue Service,  
2602 and the remaining DROP benefits must be transferred directly to  
2603 the custodian of an eligible retirement plan as defined in s.  
2604 402(c)(8)(B) of the Internal Revenue Code. However, in the case  
2605 of an eligible rollover distribution to the surviving spouse of  
2606 a deceased member participant, an eligible retirement plan is an  
2607 individual retirement account or an individual retirement  
2608 annuity as described in s. 402(c)(9) of the Internal Revenue  
2609 Code. The proportions must be specified by the DROP participant  
2610 or surviving beneficiary.

20112100er

2611 c. The form of payment selected by the DROP participant or  
2612 surviving beneficiary must comply with the minimum distribution  
2613 requirements of the Internal Revenue Code.

2614 d. A DROP participant who fails to terminate all employment  
2615 relationships as provided in s. 121.021(39) shall be deemed as  
2616 not retired, and the DROP election is null and void. Florida  
2617 Retirement System membership shall be reestablished  
2618 retroactively to the date of the commencement of DROP, and each  
2619 employer with whom the member ~~participant~~ continues employment  
2620 must pay to the Florida Retirement System Trust Fund the  
2621 difference between the DROP contributions paid in paragraph (i)  
2622 and the contributions required for the applicable Florida  
2623 Retirement System class of membership during the period the  
2624 member participated in DROP, plus 6.5 percent interest  
2625 compounded annually.

2626 6. The retirement benefits of any DROP participant who  
2627 terminates all employment relationships as provided in s.  
2628 121.021(39) but is reemployed in violation of the reemployment  
2629 provisions of subsection (9) are ~~shall be~~ suspended during those  
2630 months in which the retiree is in violation. Any retiree in  
2631 violation of this subparagraph and any employer that employs or  
2632 appoints such person without notifying the division ~~of~~  
2633 ~~Retirement~~ to suspend retirement benefits are jointly and  
2634 severally liable for any benefits paid during the reemployment  
2635 limitation period. The employer must have a written statement  
2636 from the retiree that he or she is not retired from a state-  
2637 administered retirement system. Any retirement benefits received  
2638 by a retiree while employed in violation of the reemployment  
2639 limitations must be repaid to the Florida Retirement System

20112100er

2640 Trust Fund, and his or her retirement benefits shall remain  
2641 suspended until payment is made. Benefits suspended beyond the  
2642 end of the reemployment limitation period apply toward repayment  
2643 of benefits received in violation of the reemployment  
2644 limitation.

2645 7. The accrued benefits of any DROP participant, and any  
2646 contributions accumulated under the program, are not subject to  
2647 assignment, execution, attachment, or any legal process  
2648 ~~whatsoever~~, except for qualified domestic relations court orders  
2649 ~~by a court of competent jurisdiction~~, income deduction orders as  
2650 provided in s. 61.1301, and federal income tax levies.

2651 8. DROP participants are not eligible for disability  
2652 retirement benefits as provided in subsection (4).

2653 (14) PAYMENT OF BENEFITS.—This subsection applies to the  
2654 payment of benefits to a payee (retiree or beneficiary) under  
2655 the Florida Retirement System:

2656 (d) A payee whose retirement benefits are reduced by the  
2657 application of maximum benefit limits under s. 415(b) of the  
2658 Internal Revenue Code, as specified in s. 121.30(5), shall have  
2659 the portion of his or her calculated benefit in the Florida  
2660 Retirement System Pension System ~~defined benefit~~ Plan which  
2661 exceeds such federal limitation paid through the Florida  
2662 Retirement System Preservation of Benefits Plan, as provided in  
2663 s. 121.1001.

2664 Section 16. Subsection (1) and paragraph (a) of subsection  
2665 (2) of section 121.1001, Florida Statutes, are amended to read:

2666 121.1001 Florida Retirement System Preservation of Benefits  
2667 Plan.—Effective July 1, 1999, the Florida Retirement System  
2668 Preservation of Benefits Plan is established as a qualified

20112100er

2669 governmental excess benefit arrangement pursuant to s. 415(m) of  
2670 the Internal Revenue Code. The Preservation of Benefits Plan is  
2671 created as a separate portion of the Florida Retirement System,  
2672 for the purpose of providing benefits to a payee (retiree or  
2673 beneficiary) of the Florida Retirement System whose benefits  
2674 would otherwise be limited by s. 415(b) of the Internal Revenue  
2675 Code.

2676 (1) ELIGIBILITY TO PARTICIPATE IN THE PRESERVATION OF  
2677 BENEFITS PLAN.—A payee of the Florida Retirement System shall  
2678 participate in the Preservation of Benefits Plan if ~~whenever~~ his  
2679 or her earned benefit under the Florida Retirement System  
2680 Pension System ~~defined benefit~~ Plan exceeds the benefit maximum  
2681 established under s. 415(b) of the Internal Revenue Code.  
2682 Participation in the Preservation of Benefits Plan shall  
2683 continue for as long as the payee's earned benefit under the  
2684 pension Florida Retirement System ~~defined benefit~~ plan is  
2685 reduced by the application of the maximum benefit limit under s.  
2686 415(b) of the Internal Revenue Code.

2687 (2) BENEFITS PAYABLE UNDER THE PRESERVATION OF BENEFITS  
2688 PLAN.—

2689 (a) On and after July 1, 1999, the division ~~of Retirement~~  
2690 shall pay to each eligible payee of the Florida Retirement  
2691 System who retires before, on, or after that ~~such~~ date, a  
2692 supplemental retirement benefit equal to the difference between  
2693 the amount of the payee's monthly retirement benefit which would  
2694 have been payable under the Florida Retirement System Pension  
2695 System ~~defined benefit~~ Plan if not for a reduction due to the  
2696 application of s. 415(b) of the Internal Revenue Code and the  
2697 reduced monthly retirement benefit as paid to the payee. The

20112100er

2698 Preservation of Benefits Plan benefit shall be computed and  
2699 payable under the same terms and conditions and to the same  
2700 person as would have applied under the pension ~~Florida~~  
2701 ~~Retirement System defined benefit~~ plan were it not for the  
2702 federal limitation.

2703 Section 17. Subsections (1) and (3) of section 121.101,  
2704 Florida Statutes, are amended, present subsections (4) through  
2705 (7) of that section are redesignated as subsections (6) through  
2706 (9), respectively, and new subsections (4) and (5) are added to  
2707 that section, to read:

2708 121.101 Cost-of-living adjustment of benefits.—

2709 (1) The purpose of this section is to provide cost-of-  
2710 living adjustments to the monthly benefits payable to ~~all~~  
2711 retired members of state-supported retirement systems.

2712 (3) Commencing July 1, 1987, the benefit of each retiree  
2713 and annuitant whose effective retirement date is before July 1,  
2714 2011, shall be adjusted annually on ~~each~~ July 1 ~~thereafter,~~ as  
2715 follows:

2716 (a) For those retirees and annuitants who have never  
2717 received a cost-of-living adjustment under this section, the  
2718 amount of the monthly benefit payable for the 12-month period  
2719 commencing on the adjustment date shall be the amount of the  
2720 member's initial benefit plus an amount equal to a percentage of  
2721 the member's initial benefit; this percentage is derived by  
2722 dividing the number of months the member has received an initial  
2723 benefit by 12, and multiplying the result by 3.

2724 (b) For those retirees and annuitants who have received a  
2725 cost-of-living adjustment under this subsection ~~section,~~ the  
2726 adjusted monthly benefit shall be the amount of the monthly

20112100er

2727 benefit being received on June 30 immediately preceding the  
2728 adjustment date plus an amount equal to 3 percent of this  
2729 benefit.

2730 (4) For members whose effective retirement date is on or  
2731 after July 1, 2011, the benefit of each retiree and annuitant  
2732 shall be adjusted annually on July 1 as follows:

2733 (a) For those retirees and annuitants who have never  
2734 received a cost-of-living adjustment under this subsection, the  
2735 amount of the monthly benefit payable for the 12-month period  
2736 commencing on the adjustment date shall be the amount of the  
2737 member's initial benefit plus an amount equal to a percentage of  
2738 the member's initial benefit. This percentage is derived by  
2739 dividing the number of months the member has received an initial  
2740 benefit by 12, and multiplying the result by the factor  
2741 calculated pursuant to paragraph (c).

2742 (b) For those retirees and annuitants who have received a  
2743 cost-of-living adjustment under this subsection, the adjusted  
2744 monthly benefit shall be the amount of the monthly benefit being  
2745 received on June 30 immediately preceding the adjustment date  
2746 plus an amount determined by multiplying the benefit by the  
2747 factor calculated pursuant to paragraph (c).

2748 (c) The department shall calculate a cost-of-living factor  
2749 for each retiree and beneficiary retiring on or after July 1,  
2750 2011. This factor shall equal the product of 3 percent  
2751 multiplied by the quotient of the sum of the member's service  
2752 credit earned for service before July 1, 2011, divided by the  
2753 sum of the member's total service credit earned.

2754 (5) Subject to the availability of funding and the  
2755 Legislature enacting sufficient employer contributions

20112100er

2756 specifically for the purpose of funding the expiration of the  
2757 cost-of-living adjustment specified in subsection (4), in  
2758 accordance with s. 14, Art. X of the State Constitution, the  
2759 cost-of-living adjustment formula provided for in subsection (4)  
2760 shall expire effective June 30, 2016, and the benefit of each  
2761 retiree and annuitant shall be adjusted on each July 1  
2762 thereafter, as provided in subsection (3).

2763 Section 18. Paragraph (b) of subsection (1) of section  
2764 121.1115, Florida Statutes, is amended to read:

2765 121.1115 Purchase of retirement credit for out-of-state or  
2766 federal service.—Effective January 1, 1995, a member may  
2767 purchase creditable service for periods of public employment in  
2768 another state and receive creditable service for such periods of  
2769 employment. Service with the Federal Government, including any  
2770 active military service, may be claimed. Upon completion of each  
2771 year of service earned under the Florida Retirement System, a  
2772 member may purchase up to 1 year of retirement credit for his or  
2773 her out-of-state service, subject to the following provisions:

2774 (1) LIMITATIONS AND CONDITIONS.—To receive credit for the  
2775 out-of-state service:

2776 (b) The member must have completed the ~~a minimum of 6~~ years  
2777 of creditable service required for vesting under the Florida  
2778 Retirement System, excluding out-of-state service and in-state  
2779 service claimed and purchased under s. 121.1122.

2780 Section 19. Paragraph (a) of subsection (2) of section  
2781 121.1122, Florida Statutes, is amended to read:

2782 121.1122 Purchase of retirement credit for in-state public  
2783 service and in-state service in accredited nonpublic schools and  
2784 colleges, including charter schools and charter technical career



20112100er

2785 centers.—Effective January 1, 1998, a member of the Florida  
2786 Retirement System may purchase creditable service for periods of  
2787 certain public or nonpublic employment performed in this state,  
2788 as provided in this section.

2789 (2) LIMITATIONS AND CONDITIONS.—

2790 (a) A member is not eligible to receive credit for in-state  
2791 service under this section until he or she has completed the 6  
2792 years of creditable service required for vesting under the  
2793 Florida Retirement System, excluding service purchased under  
2794 this section and out-of-state service claimed and purchased  
2795 under s. 121.1115.

2796 Section 20. Subsection (1) of section 121.121, Florida  
2797 Statutes, is amended to read:

2798 121.121 Authorized leaves of absence.—

2799 (1) A member may purchase creditable service for up to 2  
2800 work years of authorized leaves of absence, including any leaves  
2801 of absence covered under the Family Medical Leave Act, if:

2802 (a) The member has completed the ~~a minimum of 6~~ years of  
2803 creditable service required for vesting, excluding periods for  
2804 which a leave of absence was authorized;

2805 (b) The leave of absence is authorized in writing by the  
2806 employer of the member and approved by the administrator;

2807 (c) The member returns to active employment performing  
2808 service with a Florida Retirement System employer in a regularly  
2809 established position immediately upon termination of the leave  
2810 of absence and remains on the employer's payroll for 1 calendar  
2811 month, except that a member who retires on disability while on a  
2812 medical leave of absence may ~~shall~~ not be required to return to  
2813 employment. A member whose work year is less than 12 months and

20112100er

2814 whose leave of absence terminates between school years is  
2815 eligible to receive credit for the leave of absence if ~~as long~~  
2816 ~~as~~ he or she returns to the employment ~~of his or her employer~~ at  
2817 the beginning of the next school year and remains on the  
2818 employer's payroll for 1 calendar month; and

2819 (d) The member makes the required contributions for service  
2820 credit during the leave of absence, which shall be 8 percent  
2821 until January 1, 1975, and 9 percent thereafter of his or her  
2822 rate of monthly compensation in effect immediately before ~~prior~~  
2823 ~~to~~ the commencement of such leave for each month of such period,  
2824 plus 4 percent interest until July 1, 1975, and 6.5 percent  
2825 interest thereafter on such contributions, compounded annually  
2826 each June 30 from the due date of the contribution to date of  
2827 payment.

2828 1. Effective July 1, 1980, any leave of absence purchased  
2829 pursuant to this section is ~~shall be~~ at the contribution rates  
2830 specified in s. 121.071 or s. 121.71 in effect at the time the  
2831 leave is granted for the class of membership from which the  
2832 leave of absence was granted; however, any member who purchased  
2833 leave-of-absence credit before ~~prior to~~ July 1, 1980, for a  
2834 leave of absence from a position in a class other than the  
2835 regular membership class, may pay the appropriate additional  
2836 contributions plus compound interest thereon and receive  
2837 creditable service for such leave of absence in the membership  
2838 class from which the member was granted the leave of absence.

2839 2. Effective July 1, 2011, any leave of absence purchased  
2840 by the member pursuant to this section shall be at the employer  
2841 and employee contribution rates specified in s. 121.71 in effect  
2842 during the leave for the class of membership from which the

20112100er

2843 leave of absence was granted.

2844 Section 21. Section 121.125, Florida Statutes, is amended  
2845 to read:

2846 121.125 Credit for workers' compensation payment periods.—A  
2847 member of the retirement system created by this chapter who has  
2848 been eligible or becomes eligible to receive workers'  
2849 compensation payments for an injury or illness occurring during  
2850 his or her employment while a member of any state retirement  
2851 system shall, upon return to active employment with a covered  
2852 employer for 1 calendar month or upon approval for disability  
2853 retirement in accordance with s. 121.091(4), receive full  
2854 retirement credit for the period prior to such return to active  
2855 employment or disability retirement for which the workers'  
2856 compensation payments were received. However, a ~~no~~ member may  
2857 not receive retirement credit for any such period occurring  
2858 after the earlier of the date of maximum medical improvement as  
2859 defined in s. 440.02 or the date termination has occurred as  
2860 defined in s. 121.021(39). The employer of record at the time of  
2861 the worker's compensation injury or illness shall make the  
2862 required employer and employee retirement contributions based on  
2863 the member's rate of monthly compensation immediately prior to  
2864 his or her receiving workers' compensation payments for  
2865 retirement credit received by the member. The employer of record  
2866 at the time of the workers' compensation injury or illness shall  
2867 be assessed by the division a penalty of 1 percent of the  
2868 contributions on all contributions not paid on the first payroll  
2869 report after the member becomes eligible to receive credit. This  
2870 delinquent assessment may not be waived.

2871 Section 22. Section 121.161, Florida Statutes, is reenacted

20112100er

2872 to read:

2873       121.161 References to other laws include amendments.—  
2874 References in this chapter to state or federal laws or  
2875 agreements are intended to include such laws as they now exist  
2876 or may hereafter be amended.

2877       Section 23. Section 121.182, Florida Statutes, is amended  
2878 to read:

2879       121.182 Retirement annuities authorized for city and county  
2880 personnel.—Municipalities ~~Cities~~ and counties are authorized to  
2881 purchase annuities for all municipal ~~city~~ and county personnel  
2882 with 25 or more years of creditable service who have reached age  
2883 50 and have applied for retirement under the Florida Retirement  
2884 System. No such annuity shall provide for more than the total  
2885 difference in retirement income between the retirement benefit  
2886 based on average monthly compensation and creditable service as  
2887 of the member's early retirement date and the early retirement  
2888 benefit. Municipalities ~~Cities~~ and counties may also purchase  
2889 annuities for members of the Florida Retirement System who have  
2890 out-of-state service in another state or country which is  
2891 documented as valid by the appropriate city or county. Such  
2892 annuities may be based on no more than 5 years of out-of-state  
2893 service and may equal, but not exceed, the benefits that would  
2894 be payable under the Florida Retirement System if credit for  
2895 out-of-state service was authorized under that system.  
2896 Municipalities ~~Cities~~ and counties are authorized to invest  
2897 funds, purchase annuities, or provide local supplemental  
2898 retirement programs for purposes of providing annuities for city  
2899 or county personnel. All retirement annuities shall comply with  
2900 s. 14, Art. X of the State Constitution.

20112100er

2901 Section 24. Paragraphs (g) and (i) of subsection (3),  
2902 subsection (4), and subsection (5) of section 121.35, Florida  
2903 Statutes, are amended to read:

2904 121.35 Optional retirement program for the State University  
2905 System.—

2906 (3) ELECTION OF OPTIONAL PROGRAM.—

2907 (g) An eligible employee who is a member of the Florida  
2908 Retirement System at the time of election to participate in the  
2909 optional retirement program shall retain all retirement service  
2910 credit earned under the Florida Retirement System, at the rate  
2911 earned. ~~No~~ Additional service credit in the Florida Retirement  
2912 System may not ~~shall~~ be earned while the employee participates  
2913 in the optional program, and ~~nor shall~~ the employee is not ~~be~~  
2914 eligible for disability retirement under the Florida Retirement  
2915 System. An eligible employee may transfer from the Florida  
2916 Retirement System to his or her accounts under the State  
2917 University System Optional Retirement Program a sum representing  
2918 the present value of the employee's accumulated benefit  
2919 obligation under ~~the defined benefit program of the~~ pension plan  
2920 ~~Florida Retirement System~~ for any service credit accrued from  
2921 the employee's first eligible transfer date to the optional  
2922 retirement program through the actual date of such transfer, if  
2923 such service credit was earned ~~in the period~~ from July 1, 1984,  
2924 through December 31, 1992. The present value of the employee's  
2925 accumulated benefit obligation shall be calculated as described  
2926 in s. 121.4501(3) ~~(e)2~~. Upon ~~such~~ transfer, all ~~such~~ service  
2927 credit ~~previously~~ earned under the ~~defined benefit program of~~  
2928 the pension plan ~~Florida Retirement System~~ during this period is  
2929 ~~shall be~~ nullified for purposes of entitlement to a future

20112100er

2930 benefit under the pension plan ~~defined benefit program of the~~  
2931 ~~Florida Retirement System.~~

2932 (i) Effective January 1, 2008, through December 31, 2008,  
2933 except for an employee who is a mandatory participant of the  
2934 State University System Optional Retirement Program, an employee  
2935 who has elected to participate in the State University System  
2936 Optional Retirement Program shall have one opportunity, at the  
2937 employee's discretion, ~~to choose~~ to transfer from this program  
2938 to the ~~defined benefit program of the~~ Florida Retirement System  
2939 Pension Plan or to the investment plan ~~Public Employee Optional~~  
2940 ~~Retirement Program~~, subject to the terms of the applicable  
2941 contracts of the State University System Optional Retirement  
2942 Program.

2943 1. If the employee chooses to move to the investment plan  
2944 ~~Public Employee Optional Retirement Program~~, any contributions,  
2945 interest, and earnings creditable to the employee under the  
2946 State University System Optional Retirement Program must ~~shall~~  
2947 be retained by the employee in the State University System  
2948 Optional Retirement Program, and the applicable provisions of s.  
2949 121.4501(4) shall govern the election.

2950 2. If the employee chooses to move to the pension plan  
2951 ~~defined benefit program~~ of the Florida Retirement System, the  
2952 employee shall receive service credit equal to his or her years  
2953 of service under the State University System Optional Retirement  
2954 Program.

2955 a. The cost for such credit must be in ~~shall be~~ an amount  
2956 representing the actuarial accrued liability for the affected  
2957 period of service. The cost must ~~shall~~ be calculated using the  
2958 discount rate and other relevant actuarial assumptions that were

20112100er

2959 used to value the Florida Retirement System Pension ~~defined~~  
2960 ~~benefit~~ Plan liabilities in the most recent actuarial valuation.  
2961 The calculation must ~~shall~~ include any service already  
2962 maintained under the pension ~~defined benefit~~ plan in addition to  
2963 the years under the State University System Optional Retirement  
2964 Program. The actuarial accrued liability of any service already  
2965 maintained under the pension ~~defined benefit~~ plan must ~~shall~~ be  
2966 applied as a credit to total cost resulting from the  
2967 calculation. The division must ~~shall~~ ensure that the transfer  
2968 sum is prepared using a formula and methodology certified by an  
2969 enrolled actuary.

2970 b. The employee must transfer from his or her State  
2971 University System Optional Retirement Program account, and from  
2972 other employee moneys as necessary, a sum representing the  
2973 actuarial accrued liability immediately following the time of  
2974 such movement, determined assuming that attained service equals  
2975 the sum of service in the pension plan ~~defined benefit program~~  
2976 and service in the State University System Optional Retirement  
2977 Program.

2978 (4) CONTRIBUTIONS.—

2979 (a) 1. Through June 30, 2001, each employer shall contribute  
2980 on behalf of each member of ~~participant in~~ the optional  
2981 retirement program an amount equal to the normal cost portion of  
2982 the employer retirement contribution which would be required if  
2983 the employee ~~participant~~ were a regular member of the Florida  
2984 Retirement System Pension Plan ~~System defined benefit program~~,  
2985 plus the portion of the contribution rate required in s.  
2986 112.363(8) that would otherwise be assigned to the Retiree  
2987 Health Insurance Subsidy Trust Fund.

20112100er

2988           2. Effective July 1, 2001, through June 30, 2011, each  
2989 employer shall contribute on behalf of each member of  
2990 ~~participant in~~ the optional retirement program an amount equal  
2991 to 10.43 percent of the employee's ~~participant's~~ gross monthly  
2992 compensation.

2993           3. Effective July 1, 2011, each member of the optional  
2994 retirement program shall contribute an amount equal to the  
2995 employee contribution required in s. 121.71(3). The employer  
2996 shall contribute on behalf of each such member an amount equal  
2997 to the difference between 10.43 percent of the employee's gross  
2998 monthly compensation and the amount equal to the employee's  
2999 required contribution based on the employee's gross monthly  
3000 compensation.

3001           ~~4. The department shall deduct an amount approved by the~~  
3002 ~~Legislature to provide for the administration of this program.~~  
3003 ~~The payment of the contributions, including contributions by the~~  
3004 ~~employee, to the optional program which is required by this~~  
3005 ~~paragraph for each participant shall be made by the employer to~~  
3006 ~~the department, which shall forward the contributions to the~~  
3007 ~~designated company or companies contracting for payment of~~  
3008 ~~benefits for members of the participant under the program.~~  
3009 However, such contributions paid on behalf of an employee  
3010 described in paragraph (3) (c) may ~~shall~~ not be forwarded to a  
3011 company and do ~~shall~~ not begin to accrue interest until the  
3012 employee has executed a contract and notified the department.  
3013 The department shall deduct an amount from the contributions to  
3014 provide for the administration of this program.

3015           (b) Each employer shall contribute on behalf of each member  
3016 of ~~participant in~~ the optional retirement program an amount



20112100er

3017 equal to the unfunded actuarial accrued liability portion of the  
3018 employer contribution which would be required for members of the  
3019 Florida Retirement System. This contribution shall be paid to  
3020 the department for transfer to the Florida Retirement System  
3021 Trust Fund.

3022 (c) An Optional Retirement Program Trust Fund shall be  
3023 established in the State Treasury and administered by the  
3024 department to make payments to the provider companies on behalf  
3025 of ~~the optional retirement program~~ members ~~participants~~, and to  
3026 transfer the unfunded liability portion of the state optional  
3027 retirement program contributions to the Florida Retirement  
3028 System Trust Fund.

3029 (d) Contributions required for social security by each  
3030 employer and each employee ~~participant~~, in the amount required  
3031 for social security coverage as now or hereafter may be provided  
3032 by the federal Social Security Act, shall be maintained for each  
3033 member of ~~participant in~~ the optional retirement program and are  
3034 ~~shall be~~ in addition to the retirement contributions specified  
3035 in this subsection.

3036 (e) Each member of ~~participant in~~ the optional retirement  
3037 program who has executed a contract may contribute by way of  
3038 salary reduction or deduction a percentage amount of the  
3039 employee's ~~participant's~~ gross compensation not to exceed the  
3040 percentage amount contributed by the employer to the optional  
3041 program, but ~~in no case may~~ such contribution may not exceed  
3042 federal limitations. Payment of the employee's ~~participant's~~  
3043 contributions shall be made by the financial officer of the  
3044 employer to the division which shall forward the contributions  
3045 to the designated company or companies contracting for payment

20112100er

3046 of benefits for members of ~~the participant under~~ the program. A  
3047 member ~~participant~~ may not make, through salary reduction, any  
3048 voluntary employee contributions to any other plan under s.  
3049 403(b) of the Internal Revenue Code, with the exception of a  
3050 custodial account under s. 403(b)(7) of the Internal Revenue  
3051 Code, until he or she has made an employee contribution to his  
3052 or her optional program equal to the employer contribution. An  
3053 employee ~~A participant~~ is responsible for monitoring his or her  
3054 individual tax-deferred income to ensure he or she does not  
3055 exceed the maximum deferral amounts permitted under the Internal  
3056 Revenue Code.

3057 (f) The Optional Retirement Trust Fund may accept for  
3058 deposit into member ~~participant~~ contracts contributions in the  
3059 form of rollovers or direct trustee-to-trustee transfers by or  
3060 on behalf of members ~~participants~~ who are reasonably determined  
3061 by the department to be eligible for rollover or transfer to the  
3062 optional retirement program pursuant to the Internal Revenue  
3063 Code, if such contributions are made in accordance with rules  
3064 adopted by the department. Such contributions shall be accounted  
3065 for in accordance with any applicable requirements of the  
3066 Internal Revenue Code and department ~~of the department~~ rules.

3067 (g) Effective July 1, 2008, for purposes of paragraph (a)  
3068 and notwithstanding s. 121.021(22)(b)1., the term "employee's  
3069 ~~participant's~~ gross monthly compensation" includes salary  
3070 payments made to eligible clinical faculty from a state  
3071 university using funds provided by a faculty practice plan  
3072 authorized by the Board of Governors of the State University  
3073 System if:

3074 1. There is no ~~not any~~ employer contribution from the state

20112100er

3075 university to any other retirement program with respect to such  
3076 salary payments; and

3077 2. The employer contribution on behalf of a member of the  
3078 ~~participant in~~ the optional retirement program with respect to  
3079 such salary payments is made using funds provided by the faculty  
3080 practice plan.

3081 (5) BENEFITS.—

3082 (a) Benefits are payable under the optional retirement  
3083 program only to vested members participating ~~participants~~ in the  
3084 program, or their beneficiaries as designated by the member  
3085 ~~participant~~ in the contract with a provider company, and such  
3086 benefits shall be paid only by the designated company in  
3087 accordance with s. 403(b) of the Internal Revenue Code and the  
3088 terms of the annuity contract or contracts applicable to the  
3089 member participant. Benefits accrue in individual accounts that  
3090 are member-directed ~~participant-directed~~, portable, and funded  
3091 by employer and employee contributions and the earnings thereon.  
3092 The member participant must be terminated for 3 calendar months  
3093 from all employment relationships with all Florida Retirement  
3094 System employers, ~~as provided in s. 121.021(39)~~, to begin  
3095 receiving the ~~employer-funded~~ benefit. Benefits funded by  
3096 employer and employee contributions are payable in accordance  
3097 with the following terms and conditions:

3098 1. Benefits shall be paid only to a participating member  
3099 ~~participant~~, to his or her beneficiaries, or to his or her  
3100 estate, as designated by the member participant.

3101 2. Benefits shall be paid by the provider company or  
3102 companies in accordance with the law, the provisions of the  
3103 contract, and any applicable department rule or policy.

20112100er

3104           3. In the event of a member's ~~participant's~~ death, moneys  
3105 accumulated by, or on behalf of, the member ~~participant~~, less  
3106 withholding taxes remitted to the Internal Revenue Service, if  
3107 any, shall be distributed to the member's ~~participant's~~  
3108 designated beneficiary or beneficiaries, or to the member's  
3109 ~~participant's~~ estate, as if the member ~~participant~~ retired on  
3110 the date of death, as provided in paragraph (d) ~~(e)~~. No other  
3111 death benefits are available to survivors of members  
3112 ~~participants~~ under the optional retirement program except for  
3113 such benefits, or coverage for such benefits, as are separately  
3114 afforded by the employer, at the employer's discretion.

3115           (b) Benefits, including employee contributions, are not  
3116 payable for employee hardships, unforeseeable emergencies,  
3117 loans, medical expenses, educational expenses, purchase of a  
3118 principal residence, payments necessary to prevent eviction or  
3119 foreclosure on an employee's principal residence, or any other  
3120 reason before termination from all employment relationships with  
3121 participating employers for 3 calendar months.

3122           (c) ~~(b)~~ Upon receipt by the provider company of a properly  
3123 executed application for distribution of benefits, the total  
3124 accumulated benefit is ~~shall be~~ payable to the participating  
3125 member ~~participant~~, as:

- 3126           1. A lump-sum distribution to the member ~~participant~~;
- 3127           2. A lump-sum direct rollover distribution whereby all  
3128 accrued benefits, plus interest and investment earnings, are  
3129 paid from the member's ~~participant's~~ account directly to an  
3130 eligible retirement plan, as defined in s. 402(c)(8)(B) of the  
3131 Internal Revenue Code, on behalf of the member ~~participant~~;

3132           3. Periodic distributions;

20112100er

3133 4. A partial lump-sum payment whereby a portion of the  
3134 accrued benefit is paid to the member ~~participant~~ and the  
3135 remaining amount is transferred to an eligible retirement plan,  
3136 as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on  
3137 behalf of the member ~~participant~~; or

3138 5. Such other distribution options as are provided ~~for~~ in  
3139 the member's ~~participant's~~ optional retirement program contract.

3140 (d) ~~(e)~~ Survivor benefits are ~~shall be~~ payable as:

3141 1. A lump-sum distribution payable to the beneficiaries or  
3142 to the deceased member's ~~participant's~~ estate;

3143 2. An eligible rollover distribution on behalf of the  
3144 surviving spouse of a deceased member ~~participant~~, whereby all  
3145 accrued benefits, plus interest and investment earnings, are  
3146 paid from the deceased member's ~~participant's~~ account directly  
3147 to an eligible retirement plan, as described in s. 402(c)(8)(B)  
3148 of the Internal Revenue Code, on behalf of the surviving spouse;

3149 3. Such other distribution options as are provided ~~for~~ in  
3150 the member's ~~participant's~~ optional retirement program contract;  
3151 or

3152 4. A partial lump-sum payment whereby a portion of the  
3153 accrued benefit is paid to the deceased member's ~~participant's~~  
3154 surviving spouse or other designated beneficiaries, less  
3155 withholding taxes remitted to the Internal Revenue Service, if  
3156 any, and the remaining amount is transferred directly to an  
3157 eligible retirement plan, as described in s. 402(c)(8)(B) of the  
3158 Internal Revenue Code, on behalf of the surviving spouse. The  
3159 proportions must be specified by the member ~~participant~~ or the  
3160 surviving beneficiary.

3161

20112100er

3162 This paragraph does not abrogate other applicable provisions of  
3163 state or federal law providing payment of death benefits.

3164 (e)~~(d)~~ The benefits payable to any person under the  
3165 optional retirement program, and any contribution accumulated  
3166 under such program, are ~~shall~~ not be subject to assignment,  
3167 execution, or attachment or to any legal process ~~whatsoever~~.

3168 (f)~~(e)~~ A participating member ~~participant~~ who chooses to  
3169 receive his or her benefits must be terminated for 3 calendar  
3170 months to be eligible to receive benefits funded by employer and  
3171 employee contributions. The member ~~upon termination as defined~~  
3172 ~~in s. 121.021~~ must notify the provider company of the date he or  
3173 she wishes benefits funded by required employer and employee  
3174 contributions to begin and must be terminated as defined in s.  
3175 121.021 after the initial benefit payment or distribution is  
3176 received. Benefits may be deferred until the member ~~participant~~  
3177 chooses to make such application.

3178 (g)~~(f)~~ Benefits funded by the participating member's  
3179 voluntary ~~participant's~~ personal contributions may be paid out  
3180 at any time and in any form within the limits provided in the  
3181 contract between the member ~~participant~~ and the ~~his or her~~  
3182 provider company. The member ~~participant~~ shall notify the  
3183 provider company regarding the date and provisions under which  
3184 he or she wants to receive the employee-funded portion of the  
3185 plan.

3186 (h)~~(g)~~ For purposes of this section, "retiree" means a  
3187 former participating member ~~participant~~ of the optional  
3188 retirement program who has terminated employment and has taken a  
3189 distribution as provided in this subsection, except for a  
3190 mandatory distribution of a de minimis account authorized by the

20112100er

3191 department.

3192 Section 25. Section 121.355, Florida Statutes, is amended  
3193 to read:

3194 121.355 Community College Optional Retirement Program and  
3195 State University System Optional Retirement Program member  
3196 transfer.—Effective January 1, 2009, through December 31, 2009,  
3197 an employee who is a former member of ~~participant in~~ the  
3198 Community College Optional Retirement Program or the State  
3199 University System Optional Retirement Program and present  
3200 mandatory member of ~~participant in~~ the Florida Retirement System  
3201 Pension System ~~defined benefit~~ Plan may receive service credit  
3202 equal to his or her years of service under the Community College  
3203 Optional Retirement Program or the State University System  
3204 Optional Retirement Program under the following conditions:

3205 (1) The cost for such credit must represent ~~shall be an~~  
3206 ~~amount representing~~ the actuarial accrued liability for the  
3207 affected period of service. The cost shall be calculated using  
3208 the discount rate and other relevant actuarial assumptions that  
3209 were used to value the Florida Retirement System Pension System  
3210 ~~defined benefit~~ Plan liabilities in the most recent actuarial  
3211 valuation. The calculation must ~~shall~~ include any service  
3212 already maintained under the pension ~~defined benefit~~ plan in  
3213 addition to the years under the Community College Optional  
3214 Retirement Program or the State University System Optional  
3215 Retirement Program. The actuarial accrued liability of any  
3216 service already maintained under the pension ~~defined benefit~~  
3217 plan shall be applied as a credit to total cost resulting from  
3218 the calculation. The division shall ensure that the transfer sum  
3219 is prepared using a formula and methodology certified by an

20112100er

3220 enrolled actuary.

3221 (2) The employee must transfer from his or her Community  
3222 College Optional Retirement Program account or State University  
3223 System Optional Retirement Program account, subject to the terms  
3224 of the applicable optional retirement program contract, and from  
3225 other employee moneys as necessary, a sum representing the  
3226 actuarial accrued liability immediately following the time of  
3227 such movement, determined assuming that attained service equals  
3228 the sum of service in the pension plan ~~defined benefit program~~  
3229 and service in the Community College Optional Retirement Program  
3230 or State University System Optional Retirement Program.

3231 (3) The employee may not receive service credit for a  
3232 period of mandatory participation in the State University  
3233 Optional Retirement Program or for a period for which a  
3234 distribution was received from the Community College Optional  
3235 Retirement Program or State University System Optional  
3236 Retirement Program.

3237 Section 26. Section 121.4501, Florida Statutes, is amended  
3238 to read:

3239 121.4501 Florida Retirement System Investment Plan ~~Public~~  
3240 ~~Employee Optional Retirement Program.~~

3241 (1) The Trustees of the State Board of Administration shall  
3242 establish a ~~an optional~~ defined contribution ~~retirement~~ program  
3243 called the "Florida Retirement System Investment Plan" or  
3244 "investment plan" for members of the Florida Retirement System  
3245 under which retirement benefits will be provided for eligible  
3246 employees who elect to participate in the program. The  
3247 retirement benefits ~~to be provided for or on behalf of~~  
3248 ~~participants in such optional retirement program~~ shall be



20112100er

3249 provided through member-directed ~~employee-directed~~ investments,  
3250 in accordance with s. 401(a) of the Internal Revenue Code and  
3251 ~~its~~ related regulations. The employer and employee ~~employers~~  
3252 shall make contributions ~~contribute~~, as provided in this section  
3253 ~~and~~ ss. 121.571~~7~~ and 121.71~~1~~, to the Florida Retirement System  
3254 Investment Plan ~~Public Employee Optional Retirement Program~~  
3255 Trust Fund toward the funding of ~~such optional~~ benefits.

3256 (2) DEFINITIONS.—As used in this part, the term:

3257 (a) "Approved provider" or "provider" means a private  
3258 sector company that is selected and approved by the state board  
3259 to offer one or more investment products or services to the  
3260 investment plan ~~optional retirement program~~. The term includes a  
3261 bundled provider that offers members ~~participants~~ a range of  
3262 individually allocated or unallocated investment products and  
3263 may offer a range of administrative and customer services, which  
3264 may include accounting and administration of individual member  
3265 ~~participant~~ benefits and contributions; individual member  
3266 ~~participant~~ recordkeeping; asset purchase, control, and  
3267 safekeeping; direct execution of the member's ~~participant's~~  
3268 instructions as to asset and contribution allocation;  
3269 calculation of daily net asset values; direct access to member  
3270 ~~participant~~ account information; periodic reporting to members  
3271 ~~participants~~, at least quarterly, on account balances and  
3272 transactions; guidance, advice, and allocation services directly  
3273 relating to the provider's own investment options or products,  
3274 but only if the bundled provider complies with the standard of  
3275 care of s. 404(a)(1)(A-B) of the Employee Retirement Income  
3276 Security Act of 1974 (ERISA), and if providing such guidance,  
3277 advice, or allocation services does not constitute a prohibited

20112100er

3278 transaction under s. 4975(c)(1) of the Internal Revenue Code or  
3279 s. 406 of ERISA, notwithstanding that such prohibited  
3280 transaction provisions do not apply to the ~~optional~~ retirement  
3281 program; a broad array of distribution options; asset  
3282 allocation; and retirement counseling and education. Private  
3283 sector companies include investment management companies,  
3284 insurance companies, depositories, and mutual fund companies.

3285 (b) "Average monthly compensation" means one-twelfth of  
3286 average final compensation as defined in s. 121.021.

3287 (c) "Covered employment" means employment in a regularly  
3288 established position as defined in s. 121.021.

3289 ~~(d) "Defined benefit program" means the defined benefit~~  
3290 ~~program of the Florida Retirement System administered under part~~  
3291 ~~I of this chapter.~~

3292 ~~(e) "Division" means the Division of Retirement within the~~  
3293 ~~department.~~

3294 (d)~~(f)~~ "Electronic means" means by telephone, if the  
3295 required information is received on a recorded line, or through  
3296 Internet access, if the required information is captured online.

3297 (e)~~(g)~~ "Eligible employee" means an officer or employee, as  
3298 defined in s. 121.021, who:

3299 1. Is a member of, or is eligible for membership in, the  
3300 Florida Retirement System, including any renewed member of the  
3301 Florida Retirement System initially enrolled before July 1,  
3302 2010; or

3303 2. Participates in, or is eligible to participate in, the  
3304 Senior Management Service Optional Annuity Program as  
3305 established under s. 121.055(6), the State Community College  
3306 System Optional Retirement Program as established under s.

20112100er

3307 121.051(2)(c), or the State University System Optional  
3308 Retirement Program established under s. 121.35.

3309  
3310 The term does not include any member participating in the  
3311 Deferred Retirement Option Program established under s.  
3312 121.091(13), a retiree of a state-administered retirement system  
3313 initially reemployed on or after July 1, 2010, or a mandatory  
3314 participant of the State University System Optional Retirement  
3315 Program established under s. 121.35.

3316 (f)~~(h)~~ "Employer" means an employer, as defined in s.  
3317 121.021, of an eligible employee.

3318 (g)~~(i)~~ "Florida Retirement System Investment Plan" or  
3319 "investment plan" "Optional retirement program" or "optional  
3320 program" means the defined contribution program ~~Public Employee~~  
3321 ~~Optional Retirement Program~~ established under this part.

3322 (h) "Florida Retirement System Pension Plan" or "pension  
3323 plan" means the defined benefit program of the Florida  
3324 Retirement System administered under part I of this chapter.

3325 (i)~~(j)~~ "Member" or "employee" "Participant" means an  
3326 eligible employee who enrolls in the investment plan ~~optional~~  
3327 ~~program~~ as provided in subsection (4), ~~or~~ a terminated Deferred  
3328 Retirement Option Program member ~~participant~~ as described in  
3329 subsection (21), or a beneficiary or alternate payee of a member  
3330 or employee.

3331 (j) "Member contributions" or "employee contributions"  
3332 means the sum of all amounts deducted from the salary of a  
3333 member by his or her employer in accordance with s. 121.71(3)  
3334 and credited to his or her individual account in the investment  
3335 plan, plus any earnings on such amounts and any contributions

20112100er

3336 specified in paragraph (5) (e).

3337 (k) "Retiree" means a former member ~~participant~~ of the  
3338 investment plan ~~optional retirement program~~ who has terminated  
3339 employment and ~~has~~ taken a distribution of vested employee or  
3340 employer contributions as provided in s. 121.591, except for a  
3341 mandatory distribution of a de minimis account authorized by the  
3342 state board or a minimum required distribution provided by s.  
3343 401(a) (9) of the Internal Revenue Code.

3344 (l) "Vested" or "vesting" means the guarantee that a member  
3345 ~~participant~~ is eligible to receive a retirement benefit upon  
3346 completion of the required years of service under the investment  
3347 plan ~~optional retirement program~~.

3348 (3) ~~ELIGIBILITY; RETIREMENT SERVICE CREDIT; TRANSFER OF~~  
3349 BENEFITS.—

3350 ~~(a) Participation in the Public Employee Optional~~  
3351 ~~Retirement Program is limited to eligible employees.~~  
3352 ~~Participation in the optional retirement program is in lieu of~~  
3353 ~~participation in the defined benefit program of the Florida~~  
3354 ~~Retirement System.~~

3355 ~~(a)~~ ~~(b)~~ An eligible employee who is employed in a regularly  
3356 established position by a state employer on June 1, 2002; by a  
3357 district school board employer on September 1, 2002; or by a  
3358 local employer on December 1, 2002, and who is a member of the  
3359 pension plan ~~defined benefit retirement program of the Florida~~  
3360 ~~Retirement System~~ at the time of his or her election to  
3361 participate in the investment plan ~~Public Employee Optional~~  
3362 ~~Retirement Program~~ shall retain all retirement service credit  
3363 earned under the pension plan ~~defined benefit retirement program~~  
3364 ~~of the Florida Retirement System~~ as credited under the system

20112100er

3365 and ~~is shall be~~ entitled to a deferred benefit upon termination,  
3366 ~~if eligible under the system.~~ However, election to enroll  
3367 ~~participate in the investment plan~~ Public Employee Optional  
3368 ~~Retirement Program~~ terminates the active membership of the  
3369 employee in the pension plan ~~defined benefit program of the~~  
3370 ~~Florida Retirement System,~~ and the service of a member  
3371 ~~participant in the investment plan is~~ Public Employee Optional  
3372 ~~Retirement Program~~ shall not be creditable under the pension  
3373 plan ~~defined benefit retirement program of the Florida~~  
3374 ~~Retirement System~~ for purposes of benefit accrual but is  
3375 creditable ~~shall be credited~~ for purposes of vesting.

3376 (b) ~~(e)~~1. Notwithstanding paragraph (a), ~~an (b)~~, each  
3377 eligible employee who elects to participate in the investment  
3378 plan ~~Public Employee Optional Retirement Program~~ and establishes  
3379 one or more individual member ~~participant~~ accounts under the  
3380 ~~optional program~~ may elect to transfer to the investment plan  
3381 ~~optional program~~ a sum representing the present value of the  
3382 employee's accumulated benefit obligation under the pension plan  
3383 ~~defined benefit retirement program of the Florida Retirement~~  
3384 ~~System.~~ Upon such transfer, all service credit ~~previously earned~~  
3385 under the pension plan ~~is defined benefit program of the Florida~~  
3386 ~~Retirement System~~ shall be nullified for purposes of entitlement  
3387 to a future benefit under the pension plan ~~defined benefit~~  
3388 ~~program of the Florida Retirement System.~~ A member may not  
3389 transfer ~~participant is precluded from transferring~~ the  
3390 accumulated benefit obligation balance from the pension plan  
3391 after the time ~~defined benefit program upon the expiration of~~  
3392 the period for enrolling ~~afforded to enroll~~ in the investment  
3393 plan ~~has expired~~ ~~optional program.~~

20112100er

3394        ~~1.2.~~ For purposes of this subsection, the present value of  
3395 the member's accumulated benefit obligation is based upon the  
3396 member's estimated creditable service and estimated average  
3397 final compensation under the pension plan ~~defined benefit~~  
3398 ~~program~~, subject to recomputation under subparagraph 2. ~~3.~~ For  
3399 state employees ~~enrolling under subparagraph (4)(a)1.~~, initial  
3400 estimates shall ~~will~~ be based upon creditable service and  
3401 average final compensation as of midnight on June 30, 2002; for  
3402 district school board employees ~~enrolling under subparagraph~~  
3403 ~~(4)(b)1.~~, initial estimates shall ~~will~~ be based upon creditable  
3404 service and average final compensation as of midnight on  
3405 September 30, 2002; and for local government employees ~~enrolling~~  
3406 ~~under subparagraph (4)(c)1.~~, initial estimates shall ~~will~~ be  
3407 based upon creditable service and average final compensation as  
3408 of midnight on December 31, 2002. The dates ~~respectively~~  
3409 specified are above ~~shall be construed as~~ the "estimate date"  
3410 for these employees. The actuarial present value of the  
3411 employee's accumulated benefit obligation shall be based on the  
3412 following:

3413        a. The discount rate and other relevant actuarial  
3414 assumptions used to value the Florida Retirement System Trust  
3415 Fund at the time the amount to be transferred is determined,  
3416 consistent with the factors provided in sub-subparagraphs b. and  
3417 c.

3418        b. A benefit commencement age, based on the member's  
3419 estimated creditable service as of the estimate date.

3420        c. Except as provided under sub-subparagraph d., for a  
3421 member initially enrolled:

3422        (I) Before July 1, 2011, the benefit commencement age is

20112100er

3423 ~~shall be~~ the younger of the following, but may ~~shall~~ not be  
3424 younger than the member's age as of the estimate date:

3425 (A) ~~(I)~~ Age 62; or

3426 (B) ~~(II)~~ The age the member would attain if the member  
3427 completed 30 years of service with an employer, assuming the  
3428 member worked continuously from the estimate date, and  
3429 disregarding any vesting requirement that would otherwise apply  
3430 under the pension plan ~~defined benefit program of the Florida~~  
3431 ~~Retirement System.~~

3432 (II) On or after July 1, 2011, the benefit commencement age  
3433 is the younger of the following, but may not be younger than the  
3434 member's age as of the estimate date:

3435 (A) Age 65; or

3436 (B) The age the member would attain if the member completed  
3437 33 years of service with an employer, assuming the member worked  
3438 continuously from the estimate date, and disregarding any  
3439 vesting requirement that would otherwise apply under the pension  
3440 plan.

3441 ~~d.e.~~ For members of the Special Risk Class and for members  
3442 of the Special Risk Administrative Support Class entitled to  
3443 retain the special risk normal retirement date:

3444 (I) Initially enrolled before July 1, 2011, the benefit  
3445 commencement age ~~is shall be~~ the younger of the following, but  
3446 may ~~shall~~ not be younger than the member's age as of the  
3447 estimate date:

3448 (A) ~~(I)~~ Age 55; or

3449 (B) ~~(II)~~ The age the member would attain if the member  
3450 completed 25 years of service with an employer, assuming the  
3451 member worked continuously from the estimate date, and

20112100er

3452 disregarding any vesting requirement that would otherwise apply  
3453 under the pension plan ~~defined benefit program of the Florida~~  
3454 ~~Retirement System.~~

3455 (II) Initially enrolled on or after July 1, 2011, the  
3456 benefit commencement age is the younger of the following, but  
3457 may not be younger than the member's age as of the estimate  
3458 date:

3459 (A) Age 60; or

3460 (B) The age the member would attain if the member completed  
3461 30 years of service with an employer, assuming the member worked  
3462 continuously from the estimate date, and disregarding any  
3463 vesting requirement that would otherwise apply under the pension  
3464 plan.

3465 ~~e.d.~~ The calculation must ~~shall~~ disregard vesting  
3466 requirements and early retirement reduction factors that would  
3467 otherwise apply under the pension plan ~~defined benefit~~  
3468 ~~retirement program.~~

3469 ~~2.3.~~ For each member participant who elects to transfer  
3470 moneys from the pension plan ~~defined benefit program~~ to his or  
3471 her account in the investment plan ~~optional program~~, the  
3472 division shall recompute the amount transferred under  
3473 subparagraph 1. ~~within 2. not later than~~ 60 days after the  
3474 actual transfer of funds based upon the member's participant's  
3475 actual creditable service and actual final average compensation  
3476 as of the initial date of participation in the investment plan  
3477 ~~optional program~~. If the recomputed amount differs from the  
3478 amount transferred ~~under subparagraph 2.~~ by \$10 or more, the  
3479 division shall:

3480 a. Transfer, or cause to be transferred, from the Florida



20112100er

3481 Retirement System Trust Fund to the member's ~~participant's~~  
3482 account ~~in the optional program~~ the excess, if any, of the  
3483 recomputed amount over the previously transferred amount  
3484 together with interest from the initial date of transfer to the  
3485 date of transfer under this subparagraph, based upon the  
3486 effective annual interest equal to the assumed return on the  
3487 actuarial investment which was used in the most recent actuarial  
3488 valuation of the system, compounded annually.

3489 b. Transfer, or cause to be transferred, from the member's  
3490 ~~participant's~~ account to the Florida Retirement System Trust  
3491 Fund the excess, if any, of the previously transferred amount  
3492 over the recomputed amount, together with interest from the  
3493 initial date of transfer to the date of transfer under this  
3494 subparagraph, based upon 6 percent effective annual interest,  
3495 compounded annually, pro rata based on the member's  
3496 ~~participant's~~ allocation plan.

3497 3. If contribution adjustments are made as a result of  
3498 employer errors or corrections, including plan corrections,  
3499 following recomputation of the amount transferred under  
3500 subparagraph 1., the member is entitled to the additional  
3501 contributions or is responsible for returning any excess  
3502 contributions resulting from the correction. However, any return  
3503 of such erroneous excess pretax contribution by the plan must be  
3504 made within the period allowed by the Internal Revenue Service.  
3505 The present value of the member's accumulated benefit obligation  
3506 shall not be recalculated.

3507 4. As directed by the member ~~participant~~, the state board  
3508 shall transfer or cause to be transferred the appropriate  
3509 amounts to the designated accounts within. ~~The board shall~~

20112100er

3510 ~~establish transfer procedures by rule, but the actual transfer~~  
3511 ~~shall not be later than~~ 30 days after the effective date of the  
3512 member's participation in the investment plan ~~optional program~~  
3513 unless the major financial markets for securities available for  
3514 a transfer are seriously disrupted by an unforeseen event that  
3515 ~~which also~~ causes the suspension of trading on any national  
3516 securities exchange in the country where the securities were  
3517 issued. In that event, the ~~such~~ 30-day period ~~of time~~ may be  
3518 extended by a resolution of the state board ~~trustees~~. Transfers  
3519 are not commissionable or subject to other fees and may be in  
3520 the form of securities or cash, as determined by the state  
3521 board. Such securities are ~~shall be~~ valued as of the date of  
3522 receipt in the member's ~~participant's~~ account.

3523 5. If the state board or the division receives notification  
3524 from the United States Internal Revenue Service that this  
3525 paragraph or any portion of this paragraph will cause the  
3526 retirement system, or a portion thereof, to be disqualified for  
3527 tax purposes under the Internal Revenue Code, ~~then~~ the portion  
3528 that will cause the disqualification does not apply. Upon such  
3529 notice, the state board and the division shall notify the  
3530 presiding officers of the Legislature.

3531 (4) PARTICIPATION; ENROLLMENT.—

3532 (a)1. With respect to an eligible employee who is employed  
3533 in a regularly established position on June 1, 2002, by a state  
3534 employer:

3535 a. Any such employee may elect to participate in the  
3536 investment plan ~~Public Employee Optional Retirement Program~~ in  
3537 lieu of retaining his or her membership in the pension plan  
3538 ~~defined benefit program of the Florida Retirement System~~. The

20112100er

3539 election must be made in writing or by electronic means and must  
3540 be filed with the third-party administrator by August 31, 2002,  
3541 or, in the case of an active employee who is on a leave of  
3542 absence on April 1, 2002, by the last business day of the 5th  
3543 month following the month the leave of absence concludes. This  
3544 election is irrevocable, except as provided in paragraph (g)  
3545 ~~(e)~~. Upon making such election, the employee shall be enrolled  
3546 as a member participant of the investment plan ~~Public Employee~~  
3547 ~~Optional Retirement Program~~, the employee's membership in the  
3548 Florida Retirement System is ~~shall be~~ governed by the provisions  
3549 of this part, and the employee's membership in the pension plan  
3550 terminates ~~defined benefit program of the Florida Retirement~~  
3551 ~~System shall terminate~~. The employee's enrollment in the  
3552 investment plan ~~is Public Employee Optional Retirement Program~~  
3553 ~~shall be~~ effective the first day of the month for which a full  
3554 month's employer contribution is made to the investment plan  
3555 ~~optional program~~.

3556 b. Any such employee who fails to elect to participate in  
3557 the investment plan ~~Public Employee Optional Retirement Program~~  
3558 within the prescribed time period is deemed to have elected to  
3559 retain membership in the pension plan ~~defined benefit program of~~  
3560 ~~the Florida Retirement System~~, and the employee's option to  
3561 elect to participate in the investment plan ~~optional program~~ is  
3562 forfeited.

3563 2. With respect to employees who become eligible to  
3564 participate in the investment plan ~~Public Employee Optional~~  
3565 ~~Retirement Program~~ by reason of employment in a regularly  
3566 established position with a state employer commencing after  
3567 April 1, 2002:

20112100er

3568 a. Any such employee shall, by default, be enrolled in the  
3569 pension plan ~~defined benefit retirement program of the Florida~~  
3570 ~~Retirement System~~ at the commencement of employment, and may, by  
3571 the last business day of the 5th month following the employee's  
3572 month of hire, elect to participate in the investment plan  
3573 ~~Public Employee Optional Retirement Program~~. The employee's  
3574 election must be made in writing or by electronic means and must  
3575 be filed with the third-party administrator. The election to  
3576 participate in the investment plan ~~optional program~~ is  
3577 irrevocable, except as provided in paragraph (g) ~~(e)~~.

3578 b. If the employee files such election within the  
3579 prescribed time period, enrollment in the investment plan is  
3580 ~~optional program~~ shall be effective on the first day of  
3581 employment. The ~~employer~~ retirement contributions paid through  
3582 the month of the employee plan change shall be transferred to  
3583 the investment ~~optional~~ program, and, effective the first day of  
3584 the next month, the employer and employee must ~~shall~~ pay the  
3585 applicable contributions based on the employee membership class  
3586 in the ~~optional~~ program.

3587 c. ~~An~~ Any such employee who fails to elect to participate  
3588 in the investment plan ~~Public Employee Optional Retirement~~  
3589 ~~Program~~ within the prescribed time period is deemed to have  
3590 elected to retain membership in the pension plan ~~defined benefit~~  
3591 ~~program of the Florida Retirement System~~, and the employee's  
3592 option to elect to participate in the investment plan ~~optional~~  
3593 ~~program~~ is forfeited.

3594 3. With respect to employees who become eligible to  
3595 participate in the investment plan ~~Public Employee Optional~~  
3596 ~~Retirement Program~~ pursuant to s. 121.051(2)(c)3. or s.

20112100er

3597 121.35(3) (i), the ~~any such~~ employee may elect to participate in  
3598 the investment plan ~~Public Employee Optional Retirement Program~~  
3599 in lieu of retaining his or her membership ~~participation~~ in the  
3600 State Community College System Optional Retirement Program or  
3601 the State University System Optional Retirement Program. The  
3602 election must be made in writing or by electronic means and must  
3603 be filed with the third-party administrator. This election is  
3604 irrevocable, except as provided in paragraph (g) ~~(e)~~. Upon  
3605 making such election, the employee shall be enrolled as a member  
3606 ~~in participant of the investment plan Public Employee Optional~~  
3607 ~~Retirement Program~~, the employee's membership in the Florida  
3608 Retirement System is ~~shall be~~ governed by the provisions of this  
3609 part, and the employee's participation in the State Community  
3610 College System Optional Retirement Program or the State  
3611 University System Optional Retirement Program terminates ~~shall~~  
3612 ~~terminate~~. The employee's enrollment in the investment plan is  
3613 ~~Public Employee Optional Retirement Program shall be~~ effective  
3614 on the first day of the month for which a full month's employer  
3615 and employee contribution is made to the investment plan  
3616 ~~optional program~~.

3617 4. For purposes of this paragraph, "state employer" means  
3618 any agency, board, branch, commission, community college,  
3619 department, institution, institution of higher education, or  
3620 water management district of the state, which participates in  
3621 the Florida Retirement System for the benefit of certain  
3622 employees.

3623 (b)1. With respect to an eligible employee who is employed  
3624 in a regularly established position on September 1, 2002, by a  
3625 district school board employer:

20112100er

3626           a. Any such employee may elect to participate in the  
3627 investment plan ~~Public Employee Optional Retirement Program~~ in  
3628 lieu of retaining his or her membership in the pension plan  
3629 ~~defined benefit program of the Florida Retirement System~~. The  
3630 election must be made in writing or by electronic means and must  
3631 be filed with the third-party administrator by November 30, or,  
3632 in the case of an active employee who is on a leave of absence  
3633 on July 1, 2002, by the last business day of the 5th month  
3634 following the month the leave of absence concludes. This  
3635 election is irrevocable, except as provided in paragraph (g)  
3636 ~~(e)~~. Upon making such election, the employee shall be enrolled  
3637 as a member participant of the investment plan ~~Public Employee~~  
3638 ~~Optional Retirement Program~~, the employee's membership in the  
3639 Florida Retirement System is ~~shall be~~ governed by the provisions  
3640 of this part, and the employee's membership in the pension plan  
3641 terminates ~~defined benefit program of the Florida Retirement~~  
3642 ~~System shall terminate~~. The employee's enrollment in the  
3643 investment plan ~~is Public Employee Optional Retirement Program~~  
3644 ~~shall be~~ effective the first day of the month for which a full  
3645 month's employer contribution is made to the investment ~~optional~~  
3646 program.

3647           b. Any such employee who fails to elect to participate in  
3648 the investment plan ~~Public Employee Optional Retirement Program~~  
3649 within the prescribed time period is deemed to have elected to  
3650 retain membership in the pension plan ~~defined benefit program of~~  
3651 ~~the Florida Retirement System~~, and the employee's option to  
3652 elect to participate in the investment plan ~~optional program~~ is  
3653 forfeited.

3654           2. With respect to employees who become eligible to

20112100er

3655 participate in the investment plan ~~Public Employee Optional~~  
3656 ~~Retirement Program~~ by reason of employment in a regularly  
3657 established position with a district school board employer  
3658 commencing after July 1, 2002:

3659 a. Any such employee shall, by default, be enrolled in the  
3660 pension plan ~~defined benefit retirement program of the Florida~~  
3661 ~~Retirement System~~ at the commencement of employment, and may, by  
3662 the last business day of the 5th month following the employee's  
3663 month of hire, elect to participate in the investment plan  
3664 ~~Public Employee Optional Retirement Program~~. The employee's  
3665 election must be made in writing or by electronic means and must  
3666 be filed with the third-party administrator. The election to  
3667 participate in the investment plan ~~optional program~~ is  
3668 irrevocable, except as provided in paragraph (g) ~~(e)~~.

3669 b. If the employee files such election within the  
3670 prescribed time period, enrollment in the investment plan ~~is~~  
3671 ~~optional program~~ shall be effective on the first day of  
3672 employment. The employer retirement contributions paid through  
3673 the month of the employee plan change shall be transferred to  
3674 the investment plan ~~optional program~~, and, effective the first  
3675 day of the next month, the employer shall pay the applicable  
3676 contributions based on the employee membership class in the  
3677 investment plan ~~optional program~~.

3678 c. Any such employee who fails to elect to participate in  
3679 the investment plan ~~Public Employee Optional Retirement Program~~  
3680 within the prescribed time period is deemed to have elected to  
3681 retain membership in the pension plan ~~defined benefit program of~~  
3682 ~~the Florida Retirement System~~, and the employee's option to  
3683 elect to participate in the investment plan ~~optional program~~ is

20112100er

3684 forfeited.

3685           3. For purposes of this paragraph, "district school board  
3686 employer" means any district school board that participates in  
3687 the Florida Retirement System for the benefit of certain  
3688 employees, or a charter school or charter technical career  
3689 center that participates in the Florida Retirement System as  
3690 provided in s. 121.051(2)(d).

3691           (c)1. With respect to an eligible employee who is employed  
3692 in a regularly established position on December 1, 2002, by a  
3693 local employer:

3694           a. Any such employee may elect to participate in the  
3695 investment plan ~~Public Employee Optional Retirement Program~~ in  
3696 lieu of retaining his or her membership in the pension plan  
3697 ~~defined benefit program of the Florida Retirement System~~. The  
3698 election must be made in writing or by electronic means and must  
3699 be filed with the third-party administrator by February 28,  
3700 2003, or, in the case of an active employee who is on a leave of  
3701 absence on October 1, 2002, by the last business day of the 5th  
3702 month following the month the leave of absence concludes. This  
3703 election is irrevocable, except as provided in paragraph (g)  
3704 ~~(e)~~. Upon making such election, the employee shall be enrolled  
3705 as a participant of the investment plan ~~Public Employee Optional~~  
3706 ~~Retirement Program~~, the employee's membership in the Florida  
3707 Retirement System is ~~shall be~~ governed by the provisions of this  
3708 part, and the employee's membership in the pension plan  
3709 terminates ~~defined benefit program of the Florida Retirement~~  
3710 ~~System shall terminate~~. The employee's enrollment in the  
3711 investment plan ~~is Public Employee Optional Retirement Program~~  
3712 ~~shall be~~ effective the first day of the month for which a full



20112100er

3713 month's employer contribution is made to the investment plan  
3714 ~~optional program~~.

3715 b. Any such employee who fails to elect to participate in  
3716 the investment plan ~~Public Employee Optional Retirement Program~~  
3717 within the prescribed time period is deemed to have elected to  
3718 retain membership in the pension plan ~~defined benefit program of~~  
3719 ~~the Florida Retirement System~~, and the employee's option to  
3720 elect to participate in the investment plan ~~optional program~~ is  
3721 forfeited.

3722 2. With respect to employees who become eligible to  
3723 participate in the investment plan ~~Public Employee Optional~~  
3724 ~~Retirement Program~~ by reason of employment in a regularly  
3725 established position with a local employer commencing after  
3726 October 1, 2002:

3727 a. Any such employee shall, by default, be enrolled in the  
3728 pension plan ~~defined benefit retirement program of the Florida~~  
3729 ~~Retirement System~~ at the commencement of employment, and may, by  
3730 the last business day of the 5th month following the employee's  
3731 month of hire, elect to participate in the investment plan  
3732 ~~Public Employee Optional Retirement Program~~. The employee's  
3733 election must be made in writing or by electronic means and must  
3734 be filed with the third-party administrator. The election to  
3735 participate in the investment plan ~~optional program~~ is  
3736 irrevocable, except as provided in paragraph (g) ~~(e)~~.

3737 b. If the employee files such election within the  
3738 prescribed time period, enrollment in the investment plan ~~is~~  
3739 ~~optional program~~ shall be effective on the first day of  
3740 employment. The employer retirement contributions paid through  
3741 the month of the employee plan change shall be transferred to

20112100er

3742 the investment plan ~~optional program~~, and, effective the first  
3743 day of the next month, the employer shall pay the applicable  
3744 contributions based on the employee membership class in the  
3745 investment plan ~~optional program~~.

3746 c. Any such employee who fails to elect to participate in  
3747 the investment plan ~~Public Employee Optional Retirement Program~~  
3748 within the prescribed time period is deemed to have elected to  
3749 retain membership in the pension plan ~~defined benefit program of~~  
3750 ~~the Florida Retirement System~~, and the employee's option to  
3751 elect to participate in the investment plan ~~optional program~~ is  
3752 forfeited.

3753 3. For purposes of this paragraph, "local employer" means  
3754 any employer not included in paragraph (a) or paragraph (b).

3755 (d) Contributions available for self-direction by a member  
3756 ~~participant~~ who has not selected one or more specific investment  
3757 products shall be allocated as prescribed by the state board.  
3758 The third-party administrator shall notify the member ~~any such~~  
3759 ~~participant~~ at least quarterly that the member ~~participant~~  
3760 should take an affirmative action to make an asset allocation  
3761 among the investment ~~optional program~~ products.

3762 (e) On or after July 1, 2011, a member of the pension plan  
3763 who obtains a refund of employee contributions retains his or  
3764 her prior plan choice upon return to employment in a regularly  
3765 established position with a participating employer.

3766 (f) A member of the investment plan who takes a  
3767 distribution of any contributions from his or her investment  
3768 plan account is considered a retiree. A retiree who is initially  
3769 reemployed on or after July 1, 2010, is not eligible for renewed  
3770 membership.

20112100er

3771            ~~(g)(e)~~ After the period during which an eligible employee  
3772 had the choice to elect the pension plan ~~defined benefit program~~  
3773 or the investment plan ~~optional retirement program~~, or the month  
3774 following the receipt of the eligible employee's plan election,  
3775 if sooner, the employee shall have one opportunity, at the  
3776 employee's discretion, to choose to move from the pension plan  
3777 ~~defined benefit program~~ to the investment plan ~~optional~~  
3778 ~~retirement program~~ or from the investment plan ~~optional~~  
3779 ~~retirement program~~ to the pension plan ~~defined benefit program~~.  
3780 Eligible employees may elect to move between plans ~~Florida~~  
3781 ~~Retirement System programs~~ only if they are earning service  
3782 credit in an employer-employee relationship consistent with s.  
3783 121.021(17)(b), excluding leaves of absence without pay.  
3784 Effective July 1, 2005, such elections are effective on the  
3785 first day of the month following the receipt of the election by  
3786 the third-party administrator and are not subject to the  
3787 requirements regarding an employer-employee relationship or  
3788 receipt of contributions for the eligible employee in the  
3789 effective month, except when the election is received by the  
3790 third-party administrator. This paragraph is contingent upon  
3791 approval by ~~from~~ the Internal Revenue Service ~~for including the~~  
3792 ~~choice described herein within the programs offered by the~~  
3793 ~~Florida Retirement System~~.

3794            1. If the employee chooses to move to the investment plan  
3795 ~~optional retirement program~~, the ~~applicable~~ provisions of  
3796 subsection (3) ~~this section shall~~ govern the transfer.

3797            2. If the employee chooses to move to the pension plan  
3798 ~~defined benefit program~~, the employee must transfer from his or  
3799 her investment plan ~~optional retirement program~~ account, and

20112100er

3800 from other employee moneys as necessary, a sum representing the  
3801 present value of that employee's accumulated benefit obligation  
3802 immediately following the time of such movement, determined  
3803 assuming that attained service equals the sum of service in the  
3804 pension plan ~~defined benefit program~~ and service in the  
3805 investment plan ~~optional retirement program~~. Benefit  
3806 commencement occurs on the first date the employee is eligible  
3807 for unreduced benefits, using the discount rate and other  
3808 relevant actuarial assumptions that were used to value the  
3809 pension ~~defined benefit~~ plan liabilities in the most recent  
3810 actuarial valuation. For any employee who, at the time of the  
3811 second election, already maintains an accrued benefit amount in  
3812 the pension plan ~~defined benefit program~~, the then-present value  
3813 of the accrued benefit ~~is~~ shall be deemed part of the required  
3814 transfer amount. The division must ~~shall~~ ensure that the  
3815 transfer sum is prepared using a formula and methodology  
3816 certified by an enrolled actuary. A refund of any employee  
3817 contributions or additional member payments made which exceed  
3818 the employee contributions that would have accrued had the  
3819 member remained in the pension plan and not transferred to the  
3820 investment plan is not permitted.

3821 3. Notwithstanding subparagraph 2., an employee who chooses  
3822 to move to the pension plan ~~defined benefit program~~ and who  
3823 became eligible to participate in the investment plan ~~optional~~  
3824 ~~retirement program~~ by reason of employment in a regularly  
3825 established position with a state employer after June 1, 2002; a  
3826 district school board employer after September 1, 2002; or a  
3827 local employer after December 1, 2002, must transfer from his or  
3828 her investment plan ~~optional retirement program~~ account, and

20112100er

3829 from other employee moneys as necessary, a sum representing the  
3830 employee's actuarial accrued liability. A refund of any employee  
3831 contributions or additional participant payments made which  
3832 exceed the employee contributions that would have accrued had  
3833 the member remained in the pension plan and not transferred to  
3834 the investment plan is not permitted.

3835 4. An employee's ability to transfer from the pension plan  
3836 ~~defined benefit program~~ to the investment plan ~~optional~~  
3837 ~~retirement program~~ pursuant to paragraphs (a)-(d), and the  
3838 ability of a current employee to have an option to later  
3839 transfer back into the pension plan ~~defined benefit program~~  
3840 under subparagraph 2., shall be deemed a significant system  
3841 amendment. Pursuant to s. 121.031(4), any resulting unfunded  
3842 liability arising from actual original transfers from the  
3843 pension plan ~~defined benefit program~~ to the investment plan  
3844 ~~optional program~~ must be amortized within 30 plan years as a  
3845 separate unfunded actuarial base independent of the reserve  
3846 stabilization mechanism defined in s. 121.031(3)(f). For the  
3847 first 25 years, a direct amortization payment may not be  
3848 calculated for this base. During this 25-year period, the  
3849 separate base shall be used to offset the impact of employees  
3850 exercising their second program election under this paragraph.  
3851 ~~It is the intent of the Legislature that~~ The actuarial funded  
3852 status of the pension plan will ~~defined benefit program~~ not be  
3853 affected by such second program elections in any significant  
3854 manner, after due recognition of the separate unfunded actuarial  
3855 base. Following the initial 25-year period, any remaining  
3856 balance of the original separate base shall be amortized over  
3857 the remaining 5 years of the required 30-year amortization

20112100er

3858 period.

3859         5. If the employee chooses to transfer from the investment  
3860 plan ~~optional retirement program~~ to the pension plan defined  
3861 ~~benefit program~~ and retains an excess account balance in the  
3862 investment plan ~~optional program~~ after satisfying the buy-in  
3863 requirements under this paragraph, the excess may not be  
3864 distributed until the member retires from the pension plan  
3865 ~~defined benefit program~~. The excess account balance may be  
3866 rolled over to the pension plan ~~defined benefit program~~ and used  
3867 to purchase service credit or upgrade creditable service in the  
3868 pension plan ~~that program~~.

3869         (5) CONTRIBUTIONS.—

3870         (a) The employee and ~~Each~~ employer shall make the required  
3871 contributions to ~~contribute on behalf of each participant in the~~  
3872 investment plan based on a percentage of the employee's gross  
3873 monthly compensation ~~Public Employee Optional Retirement~~  
3874 ~~Program~~, as provided in part III of this chapter.

3875         (b) Employee contributions shall be paid as provided in s.  
3876 121.71.

3877         (c) The state board, acting as plan fiduciary, must ~~shall~~  
3878 ensure that all plan assets are held in a trust, pursuant to s.  
3879 401 of the Internal Revenue Code. The fiduciary must ~~shall~~  
3880 ensure that such ~~said~~ contributions are allocated as follows:

3881         1. The employer and employee contribution portion earmarked  
3882 for member ~~participant~~ accounts shall be used to purchase  
3883 interests in the appropriate investment vehicles ~~for the~~  
3884 ~~accounts of each participant~~ as specified by the member  
3885 ~~participant~~, or in accordance with paragraph (4) (d).

3886         2. The employer contribution portion earmarked for

20112100er

3887 administrative and educational expenses shall be transferred to  
3888 the Florida Retirement System Investment Plan Trust Fund ~~board~~.

3889 3. The employer contribution portion earmarked for  
3890 disability benefits shall be transferred to the Florida  
3891 Retirement System Trust Fund ~~department~~.

3892 ~~(d) (b)~~ The third-party administrator is ~~Employers are~~  
3893 responsible for monitoring and notifying employers of the  
3894 ~~participants regarding~~ maximum contribution levels allowed for  
3895 members permitted under the Internal Revenue Code. If a member  
3896 ~~participant~~ contributes to any other tax-deferred plan, the  
3897 member ~~he or she~~ is responsible for ensuring that total  
3898 contributions made to the investment plan ~~optional program~~ and  
3899 to any other such plan do not exceed federally permitted  
3900 maximums.

3901 ~~(e) (c)~~ The investment plan ~~Public Employee Optional~~  
3902 ~~Retirement Program~~ may accept for deposit into member  
3903 ~~participant~~ accounts contributions in the form of rollovers or  
3904 direct trustee-to-trustee transfers by or on behalf of members  
3905 ~~participants~~, reasonably determined by the state board to be  
3906 eligible for rollover or transfer to the investment plan  
3907 ~~optional retirement program~~ pursuant to the Internal Revenue  
3908 Code, if such contributions are made in accordance with rules ~~as~~  
3909 ~~may be~~ adopted by the board. Such contributions must ~~shall~~ be  
3910 accounted for in accordance with ~~any~~ applicable Internal Revenue  
3911 Code requirements and rules of the state board.

3912 (6) VESTING REQUIREMENTS.—

3913 (a) A member is fully and immediately vested in all  
3914 employee contributions paid to the investment plan as provided  
3915 in s. 121.71, plus interest and earnings thereon and less

20112100er

3916 investment fees and administrative charges.

3917 (b)~~(a)~~1. With respect to employer contributions paid on  
3918 behalf of the member participant to the investment plan ~~optional~~  
3919 ~~retirement program~~, plus interest and earnings thereon and less  
3920 investment fees and administrative charges, a member participant  
3921 is vested after completing 1 work year with an employer,  
3922 including any service while the member participant was a member  
3923 of the pension plan ~~defined benefit program~~ or an optional  
3924 retirement program authorized under s. 121.051(2)(c) or s.  
3925 121.055(6).

3926 2. If the member participant terminates employment before  
3927 satisfying the vesting requirements, the nonvested accumulation  
3928 must be transferred from the member's participant's accounts to  
3929 the state board for deposit and investment by the state board in  
3930 its ~~the~~ suspense account created within the Florida Retirement  
3931 System Investment Plan ~~Public Employee Optional Retirement~~  
3932 ~~Program~~ Trust Fund. If the terminated member participant is  
3933 reemployed as an eligible employee within 5 years, the state  
3934 board shall transfer to the member's participant's account any  
3935 amount previously transferred from the member's participant's  
3936 accounts to the suspense account, plus actual earnings on such  
3937 amount while in the suspense account.

3938 (c)~~(b)~~1. With respect to amounts contributed by an employer  
3939 and transferred from the pension plan ~~defined benefit program~~ to  
3940 the investment plan ~~program~~, plus interest and earnings, and  
3941 less investment fees and administrative charges, a member  
3942 participant shall be vested in the amount transferred upon  
3943 meeting the vesting ~~service~~ requirements for the member's  
3944 participant's membership class as set forth in s. 121.021(45)



20112100er

3945 ~~121.021(29)~~. The third-party administrator shall account for  
3946 such amounts for each member ~~participant~~. The division shall  
3947 notify the member ~~participant~~ and the third-party administrator  
3948 when the member ~~participant~~ has satisfied the vesting period for  
3949 Florida Retirement System purposes.

3950 2. If the member ~~participant~~ terminates employment before  
3951 satisfying the vesting requirements, the nonvested accumulation  
3952 must be transferred from the member's ~~participant's~~ accounts to  
3953 the state board for deposit and investment by the state board in  
3954 the suspense account created within the Florida Retirement  
3955 System Investment Plan ~~Public Employee Optional Retirement~~  
3956 ~~Program~~ Trust Fund. If the terminated member ~~participant~~ is  
3957 reemployed as an eligible employee within 5 years, the state  
3958 board shall transfer to the member's ~~participant's~~  
3959 ~~account~~ any amount previously transferred from the member's  
3960 ~~participant's~~ accounts to the suspense account, plus the actual  
3961 earnings on such amount while in the suspense account.

3962 ~~(d)(e)~~ Any nonvested accumulations transferred from a  
3963 member's ~~participant's~~ account to the state board's suspense  
3964 account shall be forfeited, including accompanying service  
3965 credit, by the member ~~participant~~ if the member ~~participant~~ is  
3966 not reemployed as an eligible employee within 5 years after  
3967 termination.

3968 (e) If the member elects to receive any of his or her  
3969 vested employee or employer contributions upon termination of  
3970 employment as provided in s. 121.021(39)(a), except for a  
3971 mandatory distribution of a de minimis account authorized by the  
3972 state board or a minimum required distribution provided by s.  
3973 401(a)(9) of the Internal Revenue Code, the member shall forfeit

20112100er

3974 all nonvested employer contributions, and accompanying service  
3975 credit, paid on behalf of the member to the investment plan.

3976 (7) BENEFITS.—Under the investment plan, benefits must  
3977 ~~Public Employee Optional Retirement Program:~~

3978 (a) ~~Benefits shall~~ Be provided in accordance with s. 401(a)  
3979 of the Internal Revenue Code.

3980 (b) ~~Benefits shall~~ Accrue in individual accounts that are  
3981 member-directed ~~participant-directed~~, portable, and funded by  
3982 employer and employee contributions and earnings thereon.

3983 (c) ~~Benefits shall~~ Be payable in accordance with ~~the~~  
3984 ~~provisions of~~ s. 121.591.

3985 (8) INVESTMENT PLAN ADMINISTRATION OF PROGRAM.—

3986 ~~(a)~~ The investment plan ~~optional retirement program~~ shall  
3987 be administered by the state board and affected employers. The  
3988 state board may require oaths, by affidavit or otherwise, and  
3989 acknowledgments from persons in connection with the  
3990 administration of its statutory duties and responsibilities for  
3991 the investment plan ~~this program~~. An oath, by affidavit or  
3992 otherwise, may not be required of a member ~~an employee~~  
3993 ~~participant~~ at the time of enrollment. Acknowledgment of an  
3994 employee's election to participate in the program shall be no  
3995 greater than necessary to confirm the employee's election. The  
3996 state board shall adopt rules to carry out its statutory duties  
3997 with respect to administering the investment plan ~~optional~~  
3998 ~~retirement program~~, including establishing the roles and  
3999 responsibilities of affected state, local government, and  
4000 education-related employers, the state board, the department,  
4001 and third-party contractors. The department shall adopt rules  
4002 necessary to administer the investment plan ~~optional program~~ in

20112100er

4003 coordination with the pension plan ~~defined benefit program~~ and  
4004 the disability benefits available under the investment plan  
4005 ~~optional program~~.

4006 (a)~~(b)~~1. The state board shall select and contract with a  
4007 ~~one~~ third-party administrator to provide administrative services  
4008 if those services cannot be competitively and contractually  
4009 provided by the division ~~of Retirement within the Department of~~  
4010 ~~Management Services~~. With the approval of the state board, the  
4011 third-party administrator may subcontract ~~with other~~  
4012 ~~organizations or individuals~~ to provide components of the  
4013 administrative services. As a cost of administration, the state  
4014 board may compensate any such contractor for its services, in  
4015 accordance with the terms of the contract, as is deemed  
4016 necessary or proper by the board. The third-party administrator  
4017 may not be an approved provider or be affiliated with an  
4018 approved provider.

4019 2. These administrative services may include, but are not  
4020 limited to, enrollment of eligible employees, collection of  
4021 employer and employee contributions, disbursement of ~~such~~  
4022 contributions to approved providers in accordance with the  
4023 allocation directions of members ~~participants~~; services relating  
4024 to consolidated billing; individual and collective recordkeeping  
4025 and accounting; asset purchase, control, and safekeeping; and  
4026 direct disbursement of funds to and from the third-party  
4027 administrator, the division, the state board, employers, members  
4028 ~~participants~~, approved providers, and beneficiaries. This  
4029 section does not prevent or prohibit a bundled provider from  
4030 providing any administrative or customer service, including  
4031 accounting and administration of individual member ~~participant~~

20112100er

4032 benefits and contributions; individual member ~~participant~~  
4033 recordkeeping; asset purchase, control, and safekeeping; direct  
4034 execution of the member's ~~participant's~~ instructions as to asset  
4035 and contribution allocation; calculation of daily net asset  
4036 values; direct access to member ~~participant~~ account information;  
4037 or periodic reporting to members ~~participants~~, at least  
4038 quarterly, on account balances and transactions, if these  
4039 services are authorized by the state board as part of the  
4040 contract.

4041 (b)1.3. The state board shall select and contract with one  
4042 or more organizations to provide educational services. With  
4043 approval of the state board, the organizations may subcontract  
4044 ~~with other organizations or individuals~~ to provide components of  
4045 the educational services. As a cost of administration, the state  
4046 board may compensate any such contractor for its services in  
4047 accordance with the terms of the contract, as is deemed  
4048 necessary or proper by the board. The education organization may  
4049 not be an approved provider or be affiliated with an approved  
4050 provider.

4051 2.4. Educational services shall be designed by the state  
4052 board and department to assist employers, eligible employees,  
4053 members ~~participants~~, and beneficiaries in order to maintain  
4054 compliance with United States Department of Labor regulations  
4055 under s. 404(c) of the Employee Retirement Income Security Act  
4056 of 1974 and to assist employees in their choice of pension plan  
4057 ~~defined benefit or investment plan defined contribution~~  
4058 retirement alternatives. Educational services include, but are  
4059 not limited to, disseminating educational materials; providing  
4060 retirement planning education; explaining the pension

20112100er

4061 ~~differences between the defined benefit retirement~~ plan and the  
4062 investment ~~defined contribution retirement~~ plan; and offering  
4063 financial planning guidance on matters such as investment  
4064 diversification, investment risks, investment costs, and asset  
4065 allocation. An approved provider may also provide educational  
4066 information, including retirement planning and investment  
4067 allocation information concerning its products and services.

4068 (c)1. In evaluating and selecting a third-party  
4069 administrator, the state board shall establish criteria for  
4070 evaluating ~~under which it shall consider~~ the relative  
4071 capabilities and qualifications of each proposed administrator.  
4072 In developing such criteria, the state board shall consider:

4073 a. The administrator's demonstrated experience in providing  
4074 administrative services to public or private sector retirement  
4075 systems.

4076 b. The administrator's demonstrated experience in providing  
4077 daily valued recordkeeping to defined contribution programs  
4078 ~~plans~~.

4079 c. The administrator's ability and willingness to  
4080 coordinate its activities with ~~the Florida Retirement System~~  
4081 employers, the state board, and the division, and to supply to  
4082 such employers, the board, and the division the information and  
4083 data they require, including, but not limited to, monthly  
4084 management reports, quarterly member ~~participant~~ reports, and ad  
4085 hoc reports requested by the department or state board.

4086 d. The cost-effectiveness and levels of the administrative  
4087 services provided.

4088 e. The administrator's ability to interact with the members  
4089 ~~participants~~, the employers, the state board, the division, and

20112100er

4090 the providers; the means by which members ~~participants~~ may  
4091 access account information, direct investment of contributions,  
4092 make changes to their accounts, transfer moneys between  
4093 available investment vehicles, and transfer moneys between  
4094 investment products; and any fees that apply to such activities.

4095 f. Any other factor deemed necessary by the ~~Trustees of the~~  
4096 state board ~~of Administration~~.

4097 2. In evaluating and selecting an educational provider, the  
4098 state board shall establish criteria under which it shall  
4099 consider the relative capabilities and qualifications of each  
4100 proposed educational provider. In developing such criteria, the  
4101 state board shall consider:

4102 a. Demonstrated experience in providing educational  
4103 services to public or private sector retirement systems.

4104 b. Ability and willingness to coordinate its activities  
4105 with the ~~Florida Retirement System~~ employers, the state board,  
4106 and the division, and to supply to such employers, the board,  
4107 and the division the information and data they require,  
4108 including, but not limited to, reports on educational contacts.

4109 c. The cost-effectiveness and levels of the educational  
4110 services provided.

4111 d. Ability to provide educational services via different  
4112 media, including, but not limited to, the Internet, personal  
4113 contact, seminars, brochures, and newsletters.

4114 e. Any other factor deemed necessary by the ~~Trustees of the~~  
4115 state board ~~of Administration~~.

4116 3. The establishment of the criteria shall be solely within  
4117 the discretion of the state board.

4118 (d) The state board shall develop the form and content of

20112100er

4119 any contracts to be offered under the investment plan ~~Public~~  
4120 ~~Employee Optional Retirement Program~~. In developing the ~~its~~  
4121 contracts, the board shall ~~must~~ consider:

4122 1. The nature and extent of the rights and benefits to be  
4123 afforded in relation to the ~~required~~ contributions required  
4124 under the plan ~~program~~.

4125 2. The suitability of the rights and benefits provided ~~to~~  
4126 ~~be afforded~~ and the interests of employers in the recruitment  
4127 and retention of eligible employees.

4128 (e)1. The state board may contract ~~with any consultant~~ for  
4129 professional services, including legal, consulting, accounting,  
4130 and actuarial services, deemed necessary to implement and  
4131 administer the investment plan ~~optional program by the Trustees~~  
4132 ~~of the State Board of Administration~~. The state board may enter  
4133 into a contract with one or more vendors to provide low-cost  
4134 investment advice to members ~~participants~~, supplemental to  
4135 education provided by the third-party administrator. All fees  
4136 under any such contract shall be paid by those members  
4137 ~~participants~~ who choose to use the services of the vendor.

4138 2. The department may contract ~~with consultants~~ for  
4139 professional services, including legal, consulting, accounting,  
4140 and actuarial services, deemed necessary to implement and  
4141 administer the investment plan ~~optional program~~ in coordination  
4142 with the pension plan ~~defined benefit program of the Florida~~  
4143 ~~Retirement System~~. The department, in coordination with the  
4144 state board, may enter into a contract with the third-party  
4145 administrator in order to coordinate services common to the  
4146 various programs within the Florida Retirement System.

4147 (f) The third-party administrator may ~~shall~~ not receive

20112100er

4148 direct or indirect compensation from an approved provider,  
4149 except as specifically provided for in the contract with the  
4150 state board.

4151 (g) The state board shall receive and resolve member  
4152 ~~participant~~ complaints against the program, the third-party  
4153 administrator, or any program vendor or provider; shall resolve  
4154 any conflict between the third-party administrator and an  
4155 approved provider if such conflict threatens the implementation  
4156 or administration of the program or the quality of services to  
4157 employees; and may resolve any other conflicts. The third-party  
4158 administrator shall retain all member ~~participant~~ records for at  
4159 least 5 years for use in resolving any member ~~participant~~  
4160 conflicts. The state board, the third-party administrator, or a  
4161 provider is not required to produce documentation or an audio  
4162 recording to justify action taken with regard to a member  
4163 ~~participant~~ if the action occurred 5 or more years before the  
4164 complaint is submitted to the state board. It is presumed that  
4165 all action taken 5 or more years before the complaint is  
4166 submitted was taken at the request of the member ~~participant~~ and  
4167 with the member's ~~participant's~~ full knowledge and consent. To  
4168 overcome this presumption, the member ~~participant~~ must present  
4169 documentary evidence or an audio recording demonstrating  
4170 otherwise.

4171 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

4172 (a) The state board shall develop policy and procedures for  
4173 selecting, evaluating, and monitoring the performance of  
4174 approved providers and investment products ~~to which employees~~  
4175 ~~may direct retirement contributions~~ under the investment plan  
4176 ~~program~~. In accordance with such policy and procedures, the



20112100er

4177 state board shall designate and contract for a number of  
4178 investment products as determined by the board. The board shall  
4179 also select one or more bundled providers, each of which ~~whom~~  
4180 may offer multiple investment options and related services, if  
4181 ~~when~~ such ~~an~~ approach is determined by the board to provide  
4182 ~~afford~~ value to the members ~~participants~~ otherwise not available  
4183 through individual investment products. Each approved bundled  
4184 provider may offer investment options that provide members  
4185 ~~participants~~ with the opportunity to invest in each of the  
4186 following asset classes, to be composed of individual options  
4187 that represent ~~either~~ a single asset class or a combination  
4188 thereof: money markets, United States fixed income, United  
4189 States equities, and foreign stock. The state board shall review  
4190 and manage all educational materials, contract terms, fee  
4191 schedules, and other aspects of the approved provider  
4192 relationships to ensure that no provider is unduly favored or  
4193 penalized by virtue of its status within the investment plan.

4194 (b) The state board shall consider investment options or  
4195 products it considers appropriate to give members ~~participants~~  
4196 the opportunity to accumulate retirement benefits, subject to  
4197 the following:

4198 1. The investment plan ~~Public Employee Optional Retirement~~  
4199 ~~Program~~ must offer a diversified mix of low-cost investment  
4200 products that span the risk-return spectrum and may include a  
4201 guaranteed account as well as investment products, such as  
4202 individually allocated guaranteed and variable annuities, which  
4203 meet the requirements of this subsection and combine the ability  
4204 to accumulate investment returns with the option of receiving  
4205 lifetime income consistent with the long-term retirement

20112100er

4206 security of a pension plan and similar to the lifetime-income  
4207 benefit provided by the Florida Retirement System.

4208 2. Investment options or products offered by ~~the group of~~  
4209 approved providers may include mutual funds, group annuity  
4210 contracts, individual retirement annuities, interests in trusts,  
4211 collective trusts, separate accounts, and other such financial  
4212 instruments, and ~~may include~~ products that give members  
4213 ~~participants~~ the option of committing their contributions for an  
4214 extended time period in an effort to obtain returns higher than  
4215 those that could be obtained from investment products offering  
4216 full liquidity.

4217 3. The state board may ~~shall~~ not contract with a ~~any~~  
4218 provider that imposes a front-end, back-end, contingent, or  
4219 deferred sales charge, or any other fee that limits or restricts  
4220 the ability of members ~~participants~~ to select any investment  
4221 product available in the investment plan ~~optional program~~. This  
4222 prohibition does not apply to fees or charges that are imposed  
4223 on withdrawals from products that give members ~~participants~~ the  
4224 option of committing ~~their~~ contributions for an extended time  
4225 period in an effort to obtain returns higher than those that  
4226 could be obtained from investment products offering full  
4227 liquidity, if ~~provided that~~ the product ~~in question~~, net of all  
4228 fees and charges, produces material benefits relative to other  
4229 comparable products in the investment plan ~~program~~ offering full  
4230 liquidity.

4231 4. Fees or charges for insurance features, such as  
4232 mortality and expense-risk charges, must be reasonable relative  
4233 to the benefits provided.

4234 (c) In evaluating and selecting approved providers and

20112100er

4235 products, the state board shall establish criteria for  
4236 evaluating ~~under which it shall consider~~ the relative  
4237 capabilities and qualifications of each proposed provider  
4238 company and product. In developing such criteria, the board  
4239 shall consider the following to the extent such factors may be  
4240 applied in connection with investment products, services, or  
4241 providers:

4242 1. Experience in the United States providing retirement  
4243 products and related financial services under defined  
4244 contribution retirement programs ~~plans~~.

4245 2. Financial strength and stability as ~~which shall be~~  
4246 evidenced by the highest ratings assigned by nationally  
4247 recognized rating services when comparing proposed providers  
4248 that are so rated.

4249 3. Intrastate and interstate portability of the product  
4250 offered, including early withdrawal options.

4251 4. Compliance with the Internal Revenue Code.

4252 5. The cost-effectiveness of the product provided and the  
4253 levels of service supporting the product relative to its  
4254 benefits and its characteristics, including, ~~without limitation,~~  
4255 the level of risk borne by the provider.

4256 6. The provider company's ability and willingness to  
4257 coordinate its activities with Florida Retirement System  
4258 employers, the department, and the state board, and to supply  
4259 the ~~to such~~ employers, the department, and the board with the  
4260 information and data they require.

4261 7. The methods available to members ~~participants~~ to  
4262 interact with the provider company; the means by which members  
4263 ~~participants~~ may access account information, direct investment

20112100er

4264 of contributions, make changes to their accounts, transfer  
4265 moneys between available investment vehicles, and transfer  
4266 moneys between provider companies; and any fees that apply to  
4267 such activities.

4268 8. The provider company's policies with respect to the  
4269 transfer of individual account balances, contributions, and  
4270 earnings thereon, both internally among investment products  
4271 offered by the provider company and externally between approved  
4272 providers, as well as any fees, charges, reductions, or  
4273 penalties that may be applied.

4274 9. An evaluation of specific investment products, taking  
4275 into account each product's experience in meeting its investment  
4276 return objectives net of all related fees, expenses, and  
4277 charges, including, but not limited to, investment management  
4278 fees, loads, distribution and marketing fees, custody fees,  
4279 recordkeeping fees, education fees, annuity expenses, and  
4280 consulting fees.

4281 10. Organizational factors, including, but not limited to,  
4282 financial solvency, organizational depth, and experience in  
4283 providing institutional and retail investment services.

4284 (d) By March 1, 2010, the state board shall identify and  
4285 offer at least one terror-free investment product that allocates  
4286 its funds among securities not subject to divestiture as  
4287 provided in s. 215.473 if the investment product is deemed by  
4288 the state board to be consistent with prudent investor  
4289 standards. A ~~No~~ person may not bring a civil, criminal, or  
4290 administrative action against an approved provider; the state  
4291 board; or any employee, officer, director, or trustee of such  
4292 provider based upon the divestiture of any security or the

20112100er

4293 offering of a terror-free investment product as specified in  
4294 this paragraph.

4295 (e) As a condition of offering an ~~any~~ investment option or  
4296 product in the investment plan ~~optional retirement program~~, the  
4297 approved provider must agree to make the investment product or  
4298 service available under the most beneficial terms offered to any  
4299 other customer, subject to approval by the ~~Trustees of the state~~  
4300 ~~board of Administration~~.

4301 (f) The state board shall regularly review the performance  
4302 of each approved provider and product and related organizational  
4303 factors to ensure continued compliance with established  
4304 selection criteria and with board policy and procedures.  
4305 Providers and products may be terminated subject to contract  
4306 provisions. The state board shall adopt procedures to transfer  
4307 account balances from terminated products or providers to other  
4308 products or providers in the investment plan ~~optional program~~.

4309 (g)1. An approved provider shall comply with all applicable  
4310 federal and state securities and insurance laws and regulations  
4311 ~~applicable to the provider~~, as well as with the applicable rules  
4312 and guidelines of the National Association of Securities Dealers  
4313 which govern the ethical marketing of investment products. In  
4314 furtherance of this mandate, an approved provider must agree in  
4315 its contract with the state board to establish and maintain a  
4316 compliance education and monitoring system to supervise the  
4317 activities of all personnel who directly communicate with  
4318 individual members ~~participants~~ and recommend investment  
4319 products, which system is consistent with rules of the National  
4320 Association of Securities Dealers.

4321 2. Approved provider personnel who directly communicate

20112100er

4322 with individual members ~~participants~~ and who recommend  
4323 investment products shall make an independent and unbiased  
4324 determination as to whether an investment product is suitable  
4325 for a particular member ~~participant~~.

4326 3. The state board shall develop procedures to receive and  
4327 resolve member ~~participant~~ complaints against a provider or  
4328 approved provider personnel, and, if ~~when~~ appropriate, refer  
4329 such complaints to the appropriate agency.

4330 4. Approved providers may not sell or in any way distribute  
4331 any customer list or member ~~participant~~ identification  
4332 information generated through their offering of products or  
4333 services through the investment plan ~~optional retirement~~  
4334 ~~program~~.

4335 (10) EDUCATION COMPONENT.—

4336 (a) The state board, in coordination with the department,  
4337 shall provide for an education component for system members in a  
4338 manner consistent with the provisions of this section. The  
4339 education component must be available to eligible employees at  
4340 least 90 days prior to the beginning date of the election period  
4341 for the employees of the respective types of employers.

4342 (b) The education component must provide system members  
4343 with impartial and balanced information about plan choices. The  
4344 education component must involve multimedia formats. Program  
4345 comparisons must, to the greatest extent possible, be based upon  
4346 the retirement income that different retirement programs may  
4347 provide to the member ~~participant~~. The state board shall monitor  
4348 the performance of the contract to ensure that the program is  
4349 conducted in accordance with the contract, applicable law, and  
4350 the rules of the state board.

20112100er

4351 (c) The state board, in coordination with the department,  
4352 shall provide for an initial and ongoing transfer education  
4353 component to provide system members with information necessary  
4354 to make informed plan choice decisions. The transfer education  
4355 component must include, but is not limited to, information on:

4356 1. The amount of money available to a member to transfer to  
4357 the defined contribution program.

4358 2. The features of and differences between the pension plan  
4359 ~~defined benefit program~~ and the defined contribution program,  
4360 both generally and specifically, as those differences may affect  
4361 the member.

4362 3. The expected benefit available if the member were to  
4363 retire under each of the retirement programs, based on  
4364 appropriate alternative sets of assumptions.

4365 4. The rate of return from investments in the defined  
4366 contribution program and the period of time over which such rate  
4367 of return must be achieved to equal or exceed the expected  
4368 monthly benefit payable to the member under the pension plan  
4369 ~~defined benefit program~~.

4370 5. The historical rates of return for the investment  
4371 alternatives available in the defined contribution programs.

4372 6. The benefits and historical rates of return on  
4373 investments available in a typical deferred compensation plan or  
4374 a typical plan under s. 403(b) of the Internal Revenue Code for  
4375 which the employee may be eligible.

4376 7. The program choices available to employees of the State  
4377 University System and the comparative benefits of each available  
4378 program, if applicable.

4379 8. Payout options available in each of the retirement

20112100er

4380 programs.

4381 (d) An ongoing education and communication component must  
4382 provide eligible employees ~~system members~~ with information  
4383 necessary to make informed decisions about choices within their  
4384 retirement system ~~program of membership~~ and in preparation for  
4385 retirement. The component must include, but is not limited to,  
4386 information concerning:

4387 1. Rights and conditions of membership.

4388 2. Benefit features within the program, options, and  
4389 effects of certain decisions.

4390 3. Coordination of contributions and benefits with a  
4391 deferred compensation plan under s. 457 or a plan under s.  
4392 403(b) of the Internal Revenue Code.

4393 4. Significant program changes.

4394 5. Contribution rates and program funding status.

4395 6. Planning for retirement.

4396 (e) Descriptive materials must be prepared under the  
4397 assumption that the employee is an unsophisticated investor, and  
4398 all materials used in the education component must be approved  
4399 by the state board prior to dissemination.

4400 (f) The state board and the department shall also establish  
4401 a communication component to provide program information to  
4402 participating employers and the employers' personnel and payroll  
4403 officers and to explain their respective responsibilities in  
4404 conjunction with the retirement programs.

4405 (g) Funding for education of new employees may reflect  
4406 administrative costs to the investment plan ~~optional program~~ and  
4407 the pension plan ~~defined benefit program~~.

4408 (h) Pursuant to subsection ~~paragraph~~ (8) ~~(a)~~, all Florida



20112100er

4409 Retirement System employers have an obligation to regularly  
4410 communicate the existence of the two Florida Retirement System  
4411 plans and the plan choice in the natural course of administering  
4412 their personnel functions, using the educational materials  
4413 supplied by the state board and the Department of Management  
4414 Services.

4415 (11) MEMBER PARTICIPANT INFORMATION REQUIREMENTS.—The state  
4416 board shall ensure that each member participant is provided a  
4417 quarterly statement that accounts for the contributions made on  
4418 behalf of the member such participant; the interest and  
4419 investment earnings thereon; and any fees, penalties, or other  
4420 deductions that apply ~~thereto~~. At a minimum, such statements  
4421 must:

4422 (a) Indicate the member's participant's investment options.

4423 (b) State the market value of the account at the close of  
4424 the current quarter and previous quarter.

4425 (c) Show account gains and losses ~~for the period~~ and  
4426 changes in account accumulation unit values for the quarter  
4427 ~~period~~.

4428 (d) Itemize account contributions for the quarter.

4429 (e) Indicate any account changes due to adjustment of  
4430 contribution levels, reallocation of contributions, balance  
4431 transfers, or withdrawals.

4432 (f) Set forth any fees, charges, penalties, and deductions  
4433 that apply to the account.

4434 (g) Indicate the amount of the account in which the member  
4435 ~~participant~~ is fully vested and the amount of the account in  
4436 which the member participant is not vested.

4437 (h) Indicate each investment product's performance relative

20112100er

4438 to an appropriate market benchmark.

4439

4440 The third-party administrator shall provide quarterly and annual  
4441 summary reports to the state board and any other reports  
4442 requested by the department or the state board. In any  
4443 solicitation or offer of coverage under the investment plan ~~an~~  
4444 ~~optional retirement program~~, a provider company shall be  
4445 governed by the contract readability provisions of s. 627.4145,  
4446 notwithstanding s. 627.4145(6)(c). In addition, all descriptive  
4447 materials must be prepared under the assumption that the member  
4448 ~~participant~~ is an unsophisticated investor. Provider companies  
4449 must maintain an internal system of quality assurance, have  
4450 proven functional systems that are date-calculation compliant,  
4451 and be subject to a due-diligence inquiry that proves their  
4452 capacity and fitness to undertake service responsibilities.

4453 (12) ADVISORY COUNCIL TO PROVIDE ADVICE AND ASSISTANCE.—The  
4454 Investment Advisory Council, created pursuant to s. 215.444,  
4455 shall assist the state board in implementing and administering  
4456 the investment plan ~~Public Employee Optional Retirement Program~~.  
4457 ~~The Investment Advisory council, created pursuant to s. 215.444,~~  
4458 shall review the state board's initial recommendations regarding  
4459 the criteria to be used in selecting and evaluating approved  
4460 providers and investment products. The council may provide  
4461 comments on the recommendations to the state board within 45  
4462 days after receiving the initial recommendations. The state  
4463 board shall make the final determination as to whether any  
4464 investment provider or product, any contractor, or any and all  
4465 contract provisions are ~~shall be~~ approved for the investment  
4466 plan ~~program~~.

20112100er

4467 (13) FEDERAL REQUIREMENTS.—

4468 (a) ~~Provisions of~~ This section shall be construed, and the  
4469 investment plan ~~Public Employee Optional Retirement Program~~  
4470 shall be administered, so as to comply with the Internal Revenue  
4471 Code, 26 U.S.C., and specifically with plan qualification  
4472 requirements imposed on governmental plans under s. 401(a) of  
4473 the Internal Revenue Code. The state board may ~~shall have the~~  
4474 ~~power and authority to~~ adopt rules reasonably necessary to  
4475 establish or maintain the qualified status of the investment  
4476 plan ~~Optional Retirement Program~~ under the Internal Revenue Code  
4477 and to implement and administer the investment plan ~~Optional~~  
4478 ~~Retirement Program~~ in compliance with the Internal Revenue Code  
4479 and as designated under this part; provided however, that the  
4480 board shall not have the authority to adopt any rule which makes  
4481 a substantive change to the investment plan ~~Optional Retirement~~  
4482 ~~Program~~ as designed by this part.

4483 (b) Any section or provision of this chapter which is  
4484 susceptible to more than one construction shall ~~must~~ be  
4485 interpreted in favor of the construction most likely to satisfy  
4486 requirements imposed by s. 401(a) of the Internal Revenue Code.

4487 (c) Contributions payable under this section for any  
4488 limitation year may not exceed the maximum amount allowable for  
4489 qualified defined contribution pension plans under applicable  
4490 provisions of the Internal Revenue Code. If an employee who is  
4491 enrolled ~~has elected to participate~~ in the investment plan  
4492 ~~Public Employee Optional Retirement Program~~ participates in any  
4493 other plan that is maintained by the participating employer,  
4494 benefits that accrue under the investment plan ~~Public Employee~~  
4495 ~~Optional Retirement Program~~ shall be considered primary for any

20112100er

4496 aggregate limitation applicable under s. 415 of the Internal  
4497 Revenue Code.

4498 (14) INVESTMENT POLICY STATEMENT.—

4499 (a) Investment products and approved providers selected for  
4500 the investment plan must ~~Public Employee Optional Retirement~~  
4501 ~~Program shall~~ conform with the Florida Retirement System  
4502 Investment Plan ~~Public Employee Optional Retirement Program~~  
4503 Investment Policy Statement, herein referred to as the  
4504 "statement," as developed and approved by the trustees of the  
4505 state board ~~of Administration~~. The statement must include, among  
4506 other items, the investment objectives of the investment plan  
4507 ~~Public Employee Optional Retirement Program~~, manager selection  
4508 and monitoring guidelines, and performance measurement criteria.  
4509 As required from time to time, the executive director of the  
4510 state board may present recommended changes in the statement to  
4511 the board for approval.

4512 (b) Prior to presenting the statement, ~~or~~ any recommended  
4513 changes ~~thereto~~, to the state board, the executive director of  
4514 the board shall present such statement or changes to the  
4515 Investment Advisory Council for review. The council shall  
4516 present the results of its review to the board prior to the  
4517 board's final approval of the statement or changes in the  
4518 statement.

4519 (15) STATEMENT OF FIDUCIARY STANDARDS AND  
4520 RESPONSIBILITIES.—

4521 (a) Investment of ~~optional~~ defined contribution ~~retirement~~  
4522 plan assets shall be made for the sole interest and exclusive  
4523 purpose of providing benefits to members ~~plan participants~~ and  
4524 beneficiaries and defraying reasonable expenses of administering

20112100er

4525 the plan. The program's assets shall ~~are to~~ be invested, on  
4526 behalf of the program members ~~participants~~, with the care,  
4527 skill, and diligence that a prudent person acting in a like  
4528 manner would undertake. The performance of the investment duties  
4529 set forth in this paragraph shall comply with the fiduciary  
4530 standards set forth in the Employee Retirement Income Security  
4531 Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). In case of  
4532 conflict with other provisions of law authorizing investments,  
4533 the investment and fiduciary standards set forth in this  
4534 subsection shall prevail.

4535 (b) If a member ~~participant~~ or beneficiary of the  
4536 investment plan ~~Public Employee Optional Retirement Program~~  
4537 exercises control over the assets in his or her account, as  
4538 determined by reference to regulations of the United States  
4539 Department of Labor under s. 404(c) of the Employee Retirement  
4540 Income Security Act of 1974 and all applicable laws governing  
4541 the operation of the program, a ~~ne~~ program fiduciary is not  
4542 ~~shall be~~ liable for any loss to a member's ~~participant's~~ or  
4543 beneficiary's account which results from the member's ~~such~~  
4544 ~~participant's~~ or beneficiary's exercise of control.

4545 (c) Subparagraph (8)(b) 2.4. ~~and~~ paragraph ~~(15)~~(b)  
4546 incorporate the federal law concept of participant control,  
4547 established by regulations of the United States Department of  
4548 Labor under s. 404(c) of the Employee Retirement Income Security  
4549 Act of 1974 (ERISA). The purpose of this paragraph is to assist  
4550 employers and the state board ~~of Administration~~ in maintaining  
4551 compliance with s. 404(c), while avoiding unnecessary costs and  
4552 eroding member ~~participant~~ benefits under the investment plan  
4553 ~~Public Employee Optional Retirement Program~~. Pursuant to 29

20112100er

4554 C.F.R. s. 2550.404c-1(b)(2)(i)(B)(1)(viii), the state board of  
4555 ~~Administration~~ or its designated agents shall deliver to members  
4556 ~~participants~~ of the investment plan ~~Public Employee Optional~~  
4557 ~~Retirement Program~~ a copy of the prospectus most recently  
4558 provided to the plan, and, pursuant to 29 C.F.R. s. 2550.404c-  
4559 1(b)(2)(i)(B)(2)(ii), shall provide such members ~~participants~~ an  
4560 opportunity to obtain this information, except that:

4561 1. The requirement to deliver a prospectus shall be ~~deemed~~  
4562 ~~to be~~ satisfied by delivery of a fund profile or summary profile  
4563 that contains the information that would be included in a  
4564 summary prospectus as described by Rule 498 under the Securities  
4565 Act of 1933, 17 C.F.R. s. 230.498. If ~~When~~ the transaction fees,  
4566 expense information or other information provided by a mutual  
4567 fund in the prospectus does not reflect terms negotiated by the  
4568 state board of ~~Administration~~ or its designated agents, the  
4569 ~~forementioned~~ requirement is ~~deemed to be~~ satisfied by delivery  
4570 of a separate document described by Rule 498 substituting  
4571 accurate information; and

4572 2. Delivery shall be ~~deemed to have been~~ effected if  
4573 delivery is through electronic means and the following standards  
4574 are satisfied:

4575 a. Electronically-delivered documents are prepared and  
4576 provided consistent with style, format, and content requirements  
4577 applicable to printed documents;

4578 b. Each member ~~participant~~ is provided timely and adequate  
4579 notice of the documents that are to be delivered, and their  
4580 significance thereof, and of the member's ~~participant's~~ right to  
4581 obtain a paper copy of such documents free of charge;

4582 c. ~~(I) Members Participants~~ Members have adequate access to the

20112100er

4583 electronic documents, at locations such as their worksites or  
4584 public facilities, and have the ability to convert the documents  
4585 to paper free of charge by the state board ~~of Administration,~~  
4586 and the board or its designated agents take appropriate and  
4587 reasonable measures to ensure that the system for furnishing  
4588 electronic documents results in actual receipt. ~~or~~

4589 ~~(II) Members Participants~~ have provided consent to receive  
4590 information in electronic format, which consent may be revoked;  
4591 and

4592 d. The state board ~~of Administration,~~ or its designated  
4593 agent, actually provides paper copies of the documents free of  
4594 charge, upon request.

4595 (16) DISABILITY BENEFITS.—For any member ~~participant~~ of the  
4596 investment plan ~~optional retirement program~~ who becomes totally  
4597 and permanently disabled, benefits must ~~shall~~ be paid in  
4598 accordance with the provisions of s. 121.591.

4599 (17) SOCIAL SECURITY COVERAGE.—Social security coverage  
4600 shall be provided for all officers and employees who become  
4601 members ~~participants~~ of the investment plan ~~optional program~~.  
4602 Any modification of the present agreement with the Social  
4603 Security Administration, or referendum required under the Social  
4604 Security Act, for the purpose of providing social security  
4605 coverage for any member shall be requested by the state agency  
4606 in compliance with the applicable provisions of the Social  
4607 Security Act governing such coverage. However, retroactive  
4608 social security coverage for service prior to December 1, 1970,  
4609 with the employer may ~~shall~~ not be provided for any member who  
4610 was not covered under the agreement as of November 30, 1970.

4611 (18) RETIREE HEALTH INSURANCE SUBSIDY.—All officers and

20112100er

4612 employees who are members ~~participants~~ of the investment plan  
4613 are ~~optional program shall be~~ eligible to receive the retiree  
4614 health insurance subsidy, subject to the provisions of s.  
4615 112.363.

4616 (19) MEMBER PARTICIPANT RECORDS.—Personal identifying  
4617 information of a member participant in the investment plan  
4618 ~~Public Employee Optional Retirement Program~~ contained in Florida  
4619 Retirement System records held by the state board ~~of~~  
4620 ~~Administration~~ or the department ~~of Management Services~~ is  
4621 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
4622 Constitution.

4623 (20) DESIGNATION OF BENEFICIARIES.—

4624 (a) Each member participant may, by electronic means or on  
4625 a form provided for that purpose, signed and filed with the  
4626 third-party administrator, designate a choice of one or more  
4627 persons, named sequentially or jointly, as his or her  
4628 beneficiary for receiving ~~who shall receive~~ the benefits, if  
4629 any, which may be payable pursuant to this chapter in the event  
4630 of the member's participant's death. If no beneficiary is named  
4631 in this manner, or if no beneficiary designated by the member  
4632 ~~participant~~ survives the member participant, the beneficiary  
4633 shall be the spouse of the deceased, if living. If the member's  
4634 ~~participant's~~ spouse is not alive at the time of the member's  
4635 ~~his or her~~ death, the beneficiary shall be the living children  
4636 of the member participant. If no children survive, the  
4637 beneficiary shall be the member's participant's father or  
4638 mother, if living; otherwise, the beneficiary shall be the  
4639 member's participant's estate. The beneficiary most recently  
4640 designated by a member participant ~~on a form or letter filed~~



20112100er

4641 ~~with the third party administrator~~ shall be the beneficiary  
4642 entitled to any benefits payable at the time of the member's  
4643 ~~participant's~~ death. However ~~Notwithstanding any other provision~~  
4644 ~~in this subsection to the contrary,~~ for a member ~~participant~~ who  
4645 dies prior to his or her effective date of retirement, the  
4646 spouse at the time of death shall be the member's ~~participant's~~  
4647 beneficiary unless the member ~~such participant~~ designates a  
4648 different beneficiary ~~as provided in this subsection~~ subsequent  
4649 to the member's ~~participant's~~ most recent marriage.

4650 (b) If a member ~~participant~~ designates a primary  
4651 beneficiary other than the member's ~~participant's~~ spouse, the  
4652 member's ~~participant's~~ spouse must sign the beneficiary  
4653 designation form to acknowledge the designation. This  
4654 requirement does not apply to the designation of one or more  
4655 contingent beneficiaries to receive benefits remaining upon the  
4656 death of the primary beneficiary or beneficiaries.

4657 (c) Notwithstanding the member's ~~participant's~~ designation  
4658 of benefits to be paid through a trust to a beneficiary that is  
4659 a natural person, ~~and notwithstanding~~ the provisions of the  
4660 trust, benefits must ~~shall~~ be paid directly to the beneficiary  
4661 if the person is no longer a minor or an incapacitated person as  
4662 defined in s. 744.102.

4663 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT OPTION  
4664 PROGRAM MEMBERS ~~PARTICIPANTS~~.—Notwithstanding any other  
4665 provision of law ~~to the contrary,~~ members ~~participants~~ in the  
4666 Deferred Retirement Option Program offered under part I may,  
4667 after conclusion of their participation in the program, elect to  
4668 roll over or authorize a direct trustee-to-trustee transfer to  
4669 an account under the investment plan ~~Public Employee Optional~~

20112100er

4670 ~~Retirement Program~~ of their Deferred Retirement Option Program  
4671 proceeds distributed as provided under s. 121.091(13)(c)5. The  
4672 transaction must constitute an "eligible rollover distribution"  
4673 within the meaning of s. 402(c)(4) of the Internal Revenue Code.

4674 (a) The investment plan ~~Public Employee Optional Retirement~~  
4675 ~~Program~~ may accept such amounts for deposit into member  
4676 ~~participant~~ accounts as provided in paragraph (5) (e) ~~(e)~~.

4677 (b) The affected member ~~participant~~ shall direct the  
4678 investment of his or her investment account; however, unless he  
4679 or she becomes a renewed member of the Florida Retirement System  
4680 under s. 121.122 and elects to participate in the investment  
4681 plan ~~Public Employee Optional Retirement Program~~, no employer  
4682 contributions may ~~not~~ be made to the member's ~~participant's~~  
4683 account as provided under paragraph (5)(a).

4684 (c) The state board or the department is not responsible  
4685 for locating those persons who may be eligible to participate in  
4686 the investment plan ~~Public Employee Optional Retirement Program~~  
4687 under this subsection.

4688 (22) CREDIT FOR MILITARY SERVICE.—Creditable service of any  
4689 member of the investment plan includes ~~Public Employee Optional~~  
4690 ~~Retirement Program~~ shall include military service in the Armed  
4691 Forces of the United States as provided in ~~the conditions~~  
4692 ~~outlined in~~ s. 121.111(1).

4693 Section 27. Section 121.4502, Florida Statutes, is amended  
4694 to read:

4695 121.4502 Florida Retirement System Investment Plan ~~Public~~  
4696 ~~Employee Optional Retirement Program~~ Trust Fund.—

4697 (1) The Florida Retirement System Investment Plan ~~Public~~  
4698 ~~Employee Optional Retirement Program~~ Trust Fund is created to

20112100er

4699 hold the assets of the Florida Retirement System Investment Plan  
4700 ~~Public Employee Optional Retirement Program~~ in trust for the  
4701 exclusive benefit of the plan's members ~~such program's~~  
4702 ~~participants~~ and beneficiaries, and for the payment of  
4703 reasonable administrative expenses of the plan ~~program~~, in  
4704 accordance with s. 401 of the Internal Revenue Code, and shall  
4705 be administered by the state board of ~~Administration~~ as trustee.  
4706 Funds shall be credited to the trust fund as provided in this  
4707 part, to be used for the purposes of this part. The trust fund  
4708 is exempt from the service charges imposed by s. 215.20.

4709 (2) The Florida Retirement System Investment Plan ~~Public~~  
4710 ~~Employee Optional Retirement Program~~ Trust Fund is a retirement  
4711 trust fund of the Florida Retirement System that accounts for  
4712 retirement plan assets held by the state in a trustee capacity  
4713 as a fiduciary for individual participants in the Florida  
4714 Retirement System Investment Plan ~~Public Employee Optional~~  
4715 ~~Retirement Program~~ and, pursuant to s. 19(f), Art. III of the  
4716 State Constitution, is not subject to termination.

4717 (3) A forfeiture account shall be created within the  
4718 Florida Retirement System Investment Plan ~~Public Employee~~  
4719 ~~Optional Retirement Program~~ Trust Fund to hold the assets  
4720 derived from the forfeiture of benefits by participants.  
4721 Pursuant to a private letter ruling from the Internal Revenue  
4722 Service, the forfeiture account may be used only for paying  
4723 expenses of the Florida Retirement System Investment Plan ~~Public~~  
4724 ~~Employee Optional Retirement Program~~ and reducing future  
4725 employer contributions to the program. Consistent with Rulings  
4726 80-155 and 74-340 of the Internal Revenue Service, unallocated  
4727 reserves within the forfeiture account must be used as quickly

20112100er

4728 and as prudently as possible considering the state board's  
4729 fiduciary duty. Expected withdrawals from the account must  
4730 endeavor to reduce the account to zero each fiscal year.

4731 Section 28. Subsections (1) and (3) of section 121.4503,  
4732 Florida Statutes, are amended to read:

4733 121.4503 Florida Retirement System Contributions Clearing  
4734 Trust Fund.—

4735 (1) The Florida Retirement System Contributions Clearing  
4736 Trust Fund is created as a clearing fund for disbursing employer  
4737 and employee contributions to the component plans of the Florida  
4738 Retirement System and shall be administered by the Department of  
4739 Management Services. Funds shall be credited to the trust fund  
4740 as provided in this chapter and ~~shall be~~ held in trust for the  
4741 contributing employees and employers until such time as the  
4742 assets are transferred by the department to the Florida  
4743 Retirement System Trust Fund, the Florida Retirement System  
4744 Investment Plan ~~Public Employee Optional Retirement Program~~  
4745 Trust Fund, or other trust funds as authorized by law, to be  
4746 used for the purposes of this chapter. The trust fund is exempt  
4747 from the service charges imposed by s. 215.20.

4748 (3) The Department of Management Services may adopt rules  
4749 governing the receipt and disbursement of amounts received by  
4750 the Florida Retirement System Contributions Clearing Trust Fund  
4751 from employers and employees contributing to the component plans  
4752 of the Florida Retirement System.

4753 Section 29. Section 121.571, Florida Statutes, is amended  
4754 to read:

4755 121.571 Contributions.—Contributions to the Florida  
4756 Retirement System Investment Plan ~~Public Employee Optional~~

20112100er

4757 ~~Retirement Program~~ shall be made as follows:

4758 (1) CONTRIBUTORY NONCONTRIBUTORY PLAN.—Each employer and  
4759 employee shall submit ~~accomplish the~~ contributions as required  
4760 by s. 121.71 ~~by a procedure in which no employee's gross salary~~  
4761 ~~shall be reduced.~~

4762 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund the  
4763 retirement and disability benefits provided under this part must  
4764 ~~shall~~ be based on the uniform contribution rates established by  
4765 s. 121.71 and on the membership class or subclass of the member  
4766 ~~participant~~. Such contributions must ~~shall~~ be allocated as  
4767 provided in ss. 121.72 and 121.73.

4768 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR  
4769 RETIREE HEALTH INSURANCE SUBSIDY.—Contributions required under  
4770 s. 121.71 are ~~this section shall be~~ in addition to employer and  
4771 member contributions ~~required~~ for social security and the  
4772 Retiree Health Insurance Subsidy Trust Fund as required under  
4773 ~~provided in~~ ss. 112.363, 121.052, 121.055, and 121.071, as  
4774 appropriate.

4775 Section 30. Section 121.591, Florida Statutes, is amended  
4776 to read:

4777 121.591 Payment of benefits ~~payable under the Public~~  
4778 ~~Employee Optional Retirement Program of the Florida Retirement~~  
4779 ~~System~~.—Benefits may not be paid under the Florida Retirement  
4780 System Investment Plan ~~this section~~ unless the member has  
4781 terminated employment as provided in s. 121.021(39)(a) or is  
4782 deceased and a proper application has been filed as ~~in the~~  
4783 ~~manner~~ prescribed by the state board or the department. Before  
4784 termination of employment, benefits, including employee  
4785 contributions, are not payable under the investment plan for

20112100er

4786 employee hardships, unforeseeable emergencies, loans, medical  
4787 expenses, educational expenses, purchase of a principal  
4788 residence, payments necessary to prevent eviction or foreclosure  
4789 on an employee's principal residence, or any other reason prior  
4790 to termination from all employment relationships with  
4791 participating employers. The state board or department, as  
4792 appropriate, may cancel an application for retirement benefits  
4793 if when the member or beneficiary fails to timely provide the  
4794 information and documents required by this chapter and the rules  
4795 of the state board and department. In accordance with their  
4796 respective responsibilities ~~as provided herein~~, the state board  
4797 ~~of Administration~~ and the department ~~of Management Services~~  
4798 shall adopt rules establishing procedures for application for  
4799 retirement benefits and for the cancellation of such application  
4800 if when the required information or documents are not received.  
4801 The state board ~~of Administration~~ and the department ~~of~~  
4802 ~~Management Services~~, as appropriate, are authorized to cash out  
4803 a de minimis account of a member participant who has been  
4804 terminated from Florida Retirement System covered employment for  
4805 a minimum of 6 calendar months. A de minimis account is an  
4806 account containing employer and employee contributions and  
4807 accumulated earnings of not more than \$5,000 made under the  
4808 provisions of this chapter. Such cash-out must ~~either~~ be a  
4809 complete lump-sum liquidation of the account balance, subject to  
4810 the provisions of the Internal Revenue Code, or a lump-sum  
4811 direct rollover distribution paid directly to the custodian of  
4812 an eligible retirement plan, as defined by the Internal Revenue  
4813 Code, on behalf of the member participant. Any nonvested  
4814 accumulations and associated service credit, including amounts

20112100er

4815 transferred to the suspense account of the Florida Retirement  
4816 System Investment Plan Trust Fund authorized under s.  
4817 121.4501(6), shall be forfeited upon payment of any vested  
4818 benefit to a member or beneficiary, except for de minimis  
4819 distributions or minimum required distributions as provided  
4820 under this section. If any financial instrument issued for the  
4821 payment of retirement benefits under this section is not  
4822 presented for payment within 180 days after the last day of the  
4823 month in which it was originally issued, the third-party  
4824 administrator or other duly authorized agent of the state board  
4825 ~~of Administration~~ shall cancel the instrument and credit the  
4826 amount of the instrument to the suspense account of the Florida  
4827 Retirement System Investment Plan ~~Public Employee Optional~~  
4828 ~~Retirement Program~~ Trust Fund authorized under s. 121.4501(6).  
4829 Any ~~such~~ amounts transferred to the suspense account are payable  
4830 upon a proper application, not to include earnings thereon, as  
4831 provided in this section, within 10 years after the last day of  
4832 the month in which the instrument was originally issued, after  
4833 which time such amounts and any earnings attributable to  
4834 employer contributions ~~thereon~~ shall be forfeited. Any ~~such~~  
4835 forfeited amounts are assets of the ~~Public Employee Optional~~  
4836 ~~Retirement Program~~ trust fund and are not subject to ~~the~~  
4837 ~~provisions of~~ chapter 717.

4838 (1) NORMAL BENEFITS.—Under the investment plan ~~Public~~  
4839 ~~Employee Optional Retirement Program~~:

4840 (a) Benefits in the form of vested accumulations as  
4841 described in s. 121.4501(6) are payable under this subsection in  
4842 accordance with the following terms and conditions:

4843 1. ~~To the extent vested,~~ Benefits are payable only to a

20112100er

4844 member, an alternate payee of a qualified domestic relations  
4845 order, or a beneficiary participant.

4846 2. Benefits shall be paid by the third-party administrator  
4847 or designated approved providers in accordance with the law, the  
4848 contracts, and any applicable board rule or policy.

4849 3. ~~To receive benefits,~~ The member participant must be  
4850 terminated from all employment with all Florida Retirement  
4851 System employers, as provided in s. 121.021(39).

4852 4. Benefit payments may not be made until the member  
4853 ~~participant~~ has been terminated for 3 calendar months, except  
4854 that the state board may authorize by rule for the distribution  
4855 of up to 10 percent of the member's participant's account after  
4856 being terminated for 1 calendar month if the member participant  
4857 has reached the normal retirement date as defined in s. 121.021  
4858 ~~of the defined benefit plan.~~

4859 5. If a member or former member of the Florida Retirement  
4860 System receives an invalid distribution ~~from the Public Employee~~  
4861 ~~Optional Retirement Program Trust Fund,~~ such person must either  
4862 repay the full amount ~~invalid distribution to the trust fund~~  
4863 within 90 days after receipt of final notification by the state  
4864 board or the third-party administrator that the distribution was  
4865 invalid, or, in lieu of repayment, the member must terminate  
4866 employment from all participating employers. If such person  
4867 fails to repay the full invalid distribution within 90 days  
4868 after receipt of final notification, the person may be deemed  
4869 retired from the investment plan ~~optional retirement program~~ by  
4870 the state board, ~~as provided pursuant to s. 121.4501(2)(k),~~ and  
4871 is subject to s. 121.122. If such person is deemed retired ~~by~~  
4872 ~~the state board,~~ any joint and several liability set out in s.



20112100er

4873 121.091(9)(d)2. is ~~becomes null and~~ void, and the state board,  
4874 the department, or the employing agency is not liable for gains  
4875 on payroll contributions that have not been deposited to the  
4876 person's account in the investment plan ~~retirement program~~,  
4877 pending resolution of the invalid distribution. The member or  
4878 former member who has been deemed retired or who has been  
4879 determined by the state board to have taken an invalid  
4880 distribution may appeal the agency decision through the  
4881 complaint process as provided under s. 121.4501(9)(g)3. As used  
4882 in this subparagraph, the term "invalid distribution" means any  
4883 distribution from an account in the investment plan ~~optional~~  
4884 ~~retirement program~~ which is taken in violation of this section,  
4885 s. 121.091(9), or s. 121.4501.

4886 (b) If a member ~~participant~~ elects to receive his or her  
4887 benefits upon termination of employment as defined in s.  
4888 121.021, the member ~~participant~~ must submit a written  
4889 application or an application by electronic means to the third-  
4890 party administrator indicating his or her preferred distribution  
4891 date and selecting an authorized method of distribution as  
4892 provided in paragraph (c). The member ~~participant~~ may defer  
4893 receipt of benefits until he or she chooses to make such  
4894 application, subject to federal requirements.

4895 (c) Upon receipt by the third-party administrator of a  
4896 properly executed application for distribution of benefits, the  
4897 total accumulated benefit is ~~shall be~~ payable to the member pro  
4898 rata across all Florida Retirement System benefit sources  
4899 participant, as:

4900 1. A lump-sum or partial distribution to the member  
4901 participant;

20112100er

4902           2. A lump-sum direct rollover distribution whereby all  
4903 accrued benefits, plus interest and investment earnings, are  
4904 paid from the member's ~~participant's~~ account directly to the  
4905 custodian of an eligible retirement plan, as defined in s.  
4906 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
4907 member ~~participant~~; or

4908           3. Periodic distributions, as authorized by the state  
4909 board.

4910           (d) The distribution payment method selected by the member  
4911 or beneficiary, and the retirement of the member or beneficiary,  
4912 is final and irrevocable at the time a benefit distribution  
4913 payment is cashed, deposited, or transferred to another  
4914 financial institution. Any additional service that remains  
4915 unclaimed at retirement may not be claimed or purchased, and the  
4916 type of retirement may not be changed, except that if a member  
4917 recovers from a disability, the member may subsequently request  
4918 benefits under subsection (2).

4919           (e) A member may not receive a distribution of employee  
4920 contributions if a pending qualified domestic relations order is  
4921 filed against the member's investment plan account.

4922           (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided under  
4923 this subsection are payable in lieu of the benefits that ~~which~~  
4924 would otherwise be payable under the provisions of subsection  
4925 (1). Such benefits must ~~shall~~ be funded ~~entirely~~ from employer  
4926 contributions made under s. 121.571, transferred employee  
4927 contributions and ~~participant~~ funds accumulated pursuant to  
4928 paragraph (a), and interest and earnings thereon. ~~Pursuant~~  
4929 ~~thereto:~~

4930           (a) *Transfer of funds.*—To qualify to receive monthly

20112100er

4931 disability benefits under this subsection:

4932 1. All moneys accumulated in the member's account  
4933 ~~participant's Public Employee Optional Retirement Program~~  
4934 ~~accounts~~, including vested and nonvested accumulations as  
4935 described in s. 121.4501(6), must ~~shall~~ be transferred from such  
4936 individual accounts to the division ~~of Retirement~~ for deposit in  
4937 the disability account of the Florida Retirement System Trust  
4938 Fund. Such moneys must ~~shall~~ be ~~separately~~ accounted for  
4939 separately. Earnings must ~~shall~~ be credited on an annual basis  
4940 for amounts held in the disability accounts of the Florida  
4941 Retirement System Trust Fund based on actual earnings of the  
4942 ~~Florida Retirement System~~ trust fund.

4943 2. If the member ~~participant~~ has retained retirement credit  
4944 ~~he or she had~~ earned under the pension plan ~~defined benefit~~  
4945 ~~program of the Florida Retirement System~~ as provided in s.  
4946 121.4501(3) ~~(b)~~, a sum representing the actuarial present value  
4947 of such credit within the Florida Retirement System Trust Fund  
4948 shall be reassigned by the division ~~of Retirement~~ from the  
4949 pension plan ~~defined benefit program~~ to the disability program  
4950 as implemented under this subsection and shall be deposited in  
4951 the disability account of the ~~Florida Retirement System~~ trust  
4952 fund. Such moneys must ~~shall~~ be ~~separately~~ accounted for  
4953 separately.

4954 (b) *Disability retirement; entitlement.*—

4955 1. A member ~~participant~~ of the investment plan ~~Public~~  
4956 ~~Employee Optional Retirement Program~~ who becomes totally and  
4957 permanently disabled, as defined in paragraph (d) ~~s.~~  
4958 ~~121.091(4) (b)~~, after completing 8 years of creditable service,  
4959 or a member ~~participant~~ who becomes totally and permanently

20112100er

4960 disabled in the line of duty regardless of ~~his or her~~ length of  
4961 service, is ~~shall be~~ entitled to a monthly disability benefit ~~as~~  
4962 ~~provided herein.~~

4963 2. In order for service to apply toward the 8 years of  
4964 creditable service required ~~to vest~~ for regular disability  
4965 benefits, or toward the creditable service used in calculating a  
4966 service-based benefit as provided ~~for~~ under paragraph (g), the  
4967 service must be creditable service as described below:

4968 a. The member's ~~participant's~~ period of service under the  
4969 investment plan shall ~~Public Employee Optional Retirement~~  
4970 ~~Program will~~ be considered creditable service, except as  
4971 provided in subparagraph d.

4972 b. If the member ~~participant~~ has elected to retain credit  
4973 for ~~his or her~~ service under the pension plan ~~defined benefit~~  
4974 ~~program of the Florida Retirement System~~ as provided under s.  
4975 121.4501(3) ~~(b)~~, all such service shall ~~will~~ be considered  
4976 creditable service.

4977 c. If the member elects ~~participant has elected~~ to transfer  
4978 to his or her member ~~participant~~ accounts a sum representing the  
4979 present value of his or her retirement credit under the pension  
4980 plan ~~defined benefit program~~ as provided under s.  
4981 121.4501(3) ~~(e)~~, the period of service under the pension plan  
4982 ~~defined benefit program~~ represented in the present value amounts  
4983 transferred shall ~~will~~ be considered creditable service ~~for~~  
4984 ~~purposes of vesting for disability benefits~~, except as provided  
4985 in subparagraph d.

4986 d. If a member ~~Whenever a participant~~ has terminated  
4987 employment and has taken distribution of his or her funds as  
4988 provided in subsection (1), all creditable service represented

20112100er

4989 by such distributed funds is forfeited for purposes of this  
4990 subsection.

4991 (c) *Disability retirement effective date.*—The effective  
4992 retirement date for a member participant who applies and is  
4993 approved for disability retirement shall be established as  
4994 provided under s. 121.091(4) (a)2. and 3.

4995 (d) *Total and permanent disability.*—A member participant  
4996 shall be considered totally and permanently disabled if, in the  
4997 opinion of the division, he or she is prevented, by reason of a  
4998 medically determinable physical or mental impairment, from  
4999 rendering useful and efficient service as an officer or  
5000 employee.

5001 (e) *Proof of disability.*—~~The division,~~ Before approving  
5002 payment of any disability retirement benefit, the division shall  
5003 require proof that the member participant is totally and  
5004 permanently disabled ~~in the same manner as provided for members~~  
5005 ~~of the defined benefit program of the Florida Retirement System~~  
5006 under s. 121.091(4) (c).

5007 (f) *Disability retirement benefit.*—Upon the disability  
5008 retirement of a member participant under this subsection, the  
5009 member participant shall receive a monthly benefit that begins  
5010 accruing ~~shall begin to accrue~~ on the first day of the month of  
5011 disability retirement, as approved by the division, and is ~~shall~~  
5012 ~~be~~ payable on the last day of that month and each month  
5013 thereafter during his or her lifetime and continued disability.  
5014 All disability benefits must ~~payable to such member~~ shall be  
5015 paid out of the disability account of the Florida Retirement  
5016 System Trust Fund established under this subsection.

5017 (g) *Computation of disability retirement benefit.*—The

20112100er

5018 amount of each monthly payment must ~~shall~~ be calculated ~~in the~~  
5019 ~~same manner~~ as provided for members of the defined benefit  
5020 ~~program of the Florida Retirement System~~ under s. 121.091(4) (f).  
5021 ~~For such purpose,~~ Creditable service under both the pension plan  
5022 ~~defined benefit program~~ and the investment plan ~~Public Employee~~  
5023 ~~Optional Retirement Program of the Florida Retirement System~~  
5024 shall be applicable as provided under paragraph (b).

5025 (h) *Reapplication.*—A member participant whose initial  
5026 application for disability retirement is ~~has been~~ denied may  
5027 reapply for disability benefits ~~in the same manner,~~ and under  
5028 ~~the same conditions,~~ as provided in ~~for members of the defined~~  
5029 ~~benefit program of the Florida Retirement System~~ under s.  
5030 121.091(4) (g).

5031 (i) *Membership.*—Upon approval of a member's ~~an~~ application  
5032 for disability benefits ~~under this subsection,~~ the member  
5033 ~~applicant~~ shall be transferred to the pension plan ~~defined~~  
5034 ~~benefit program of the Florida Retirement System,~~ effective upon  
5035 his or her disability retirement effective date.

5036 (j) *Option to cancel.*—A member ~~Any participant~~ whose  
5037 application for disability benefits is approved may cancel the  
5038 ~~his or her~~ application if ~~for disability benefits,~~ provided that  
5039 the cancellation request is received by the division before a  
5040 disability retirement warrant has been deposited, cashed, or  
5041 received by direct deposit. Upon ~~such~~ cancellation:

5042 1. The member's ~~participant's~~ transfer to the pension plan  
5043 ~~defined benefit program~~ under paragraph (i) shall be nullified;

5044 2. The member participant shall be retroactively reinstated  
5045 in the investment plan ~~Public Employee Optional Retirement~~  
5046 ~~Program~~ without hiatus;

20112100er

5047           3. All funds transferred to the Florida Retirement System  
5048 Trust Fund under paragraph (a) must ~~shall~~ be returned to the  
5049 member ~~participant~~ accounts from which the ~~such~~ funds were  
5050 drawn; and

5051           4. The member ~~participant~~ may elect to receive the benefit  
5052 payable under ~~the provisions of~~ subsection (1) in lieu of  
5053 disability benefits ~~as provided under this subsection.~~

5054           (k) *Recovery from disability.*—

5055           1. The division may require periodic reexaminations at the  
5056 expense of the disability program account of the Florida  
5057 Retirement System Trust Fund. Except as ~~otherwise~~ provided in  
5058 subparagraph 2., ~~the requirements, procedures, and restrictions~~  
5059 ~~relating to the conduct and review of such reexaminations,~~  
5060 ~~discontinuation or termination of benefits, reentry into~~  
5061 ~~employment, disability retirement after reentry into covered~~  
5062 ~~employment, and all other matters relating to recovery from~~  
5063 disability shall be ~~the same~~ as provided ~~are set forth~~ under s.  
5064 121.091(4)(h).

5065           2. Upon recovery from disability, the ~~any~~ recipient of  
5066 disability retirement benefits under this subsection shall be a  
5067 compulsory member of the investment plan ~~Public Employee~~  
5068 ~~Optional Retirement Program of the Florida Retirement System.~~  
5069 The net difference between the recipient's original account  
5070 balance transferred to the Florida Retirement System Trust Fund,  
5071 including earnings, ~~under paragraph (a)~~ and total disability  
5072 benefits paid to such recipient, if any, shall be determined as  
5073 provided in sub-subparagraph a.

5074           a. An amount equal to the total benefits paid shall be  
5075 subtracted from that portion of the transferred account balance

20112100er

5076 consisting of vested accumulations as described under s.  
5077 121.4501(6), if any, and an amount equal to the remainder of  
5078 benefit amounts paid, if any, shall ~~then~~ be subtracted from any  
5079 remaining ~~portion consisting of~~ nonvested accumulations as  
5080 ~~described under s. 121.4501(6).~~

5081 b. Amounts subtracted under sub-subparagraph a. must ~~shall~~  
5082 be retained within the disability account of the Florida  
5083 Retirement System Trust Fund. Any remaining account balance  
5084 shall be transferred to the third-party administrator for  
5085 disposition as provided under sub-subparagraph c. or sub-  
5086 subparagraph d., as appropriate.

5087 c. If the recipient returns to covered employment,  
5088 transferred amounts must ~~shall~~ be deposited in individual  
5089 accounts under the investment plan ~~Public Employee Optional~~  
5090 ~~Retirement Program~~, as directed by the member ~~participant~~.  
5091 Vested and nonvested amounts shall be ~~separately~~ accounted for  
5092 separately as provided in s. 121.4501(6).

5093 d. If the recipient fails to return to covered employment  
5094 upon recovery from disability:

5095 (I) Any remaining vested amount must ~~shall~~ be deposited in  
5096 individual accounts under the investment plan ~~Public Employee~~  
5097 ~~Optional Retirement Program~~, as directed by the member  
5098 ~~participant~~, and is ~~shall be~~ payable as provided in subsection  
5099 (1).

5100 (II) Any remaining nonvested amount must ~~shall~~ be held in a  
5101 suspense account and is ~~shall be~~ forfeitable after 5 years as  
5102 provided in s. 121.4501(6).

5103 3. If present value was reassigned from the pension plan  
5104 ~~defined benefit program~~ to the disability program ~~of the Florida~~



20112100er

5105 ~~Retirement System~~ as provided under subparagraph (a)2., the full  
5106 present value amount must ~~shall~~ be returned to the defined  
5107 benefit account within the Florida Retirement System Trust Fund  
5108 and the member's ~~affected individual's~~ associated retirement  
5109 credit under the pension plan must ~~defined benefit program shall~~  
5110 be reinstated in full. Any benefit based upon such credit must  
5111 ~~shall~~ be calculated as provided in s. 121.091(4)(h)1.

5112 (l) *Nonadmissible causes of disability.*—A member is  
5113 ~~participant shall~~ not be entitled to receive a disability  
5114 retirement benefit if the disability results from any injury or  
5115 disease ~~sustained or inflicted~~ as described in s. 121.091(4)(i).

5116 (m) *Disability retirement of justice or judge by order of*  
5117 *Supreme Court.*—

5118 1. If a member ~~participant~~ is a justice of the Supreme  
5119 Court, judge of a district court of appeal, circuit judge, or  
5120 judge of a county court who has served for the years equal to,  
5121 or greater than, the vesting requirement in s. 121.021(45) 6  
5122 ~~years or more~~ as an elected constitutional judicial officer,  
5123 including service as a judicial officer in any court abolished  
5124 pursuant to Art. V of the State Constitution, and who is retired  
5125 for disability ~~by order of the Supreme Court upon recommendation~~  
5126 ~~of the Judicial Qualifications Commission~~ pursuant to s. 12, the  
5127 ~~provisions of~~ Art. V of the State Constitution, the member's  
5128 ~~participant's~~ Option 1 monthly disability benefit amount as  
5129 provided in s. 121.091(6)(a)1. shall be two-thirds of his or her  
5130 monthly compensation as of the member's ~~participant's~~ disability  
5131 retirement date. The member ~~Such a participant~~ may alternatively  
5132 elect to receive an actuarially adjusted disability retirement  
5133 benefit under any other option as provided in s. 121.091(6)(a),

20112100er

5134 or to receive the normal benefit payable under ~~the Public~~  
5135 ~~Employee Optional Retirement Program~~ as set forth in subsection  
5136 (1).

5137 2. If any justice or judge who is a member participant of  
5138 the investment plan ~~Public Employee Optional Retirement Program~~  
5139 ~~of the Florida Retirement System~~ is retired for disability ~~by~~  
5140 ~~order of the Supreme Court upon recommendation of the Judicial~~  
5141 ~~Qualifications Commission pursuant to s. 12, the provisions of~~  
5142 Art. V of the State Constitution and elects to receive a monthly  
5143 disability benefit under the provisions of this paragraph:

5144 a. Any present value amount that was transferred to his or  
5145 her investment plan ~~program~~ account and all employer and  
5146 employee contributions made to such account on his or her  
5147 behalf, plus interest and earnings thereon, must ~~shall~~ be  
5148 transferred to and deposited in the disability account of the  
5149 Florida Retirement System Trust Fund; and

5150 b. The monthly disability benefits payable under this  
5151 paragraph ~~for any affected justice or judge retired from the~~  
5152 ~~Florida Retirement System pursuant to Art. V of the State~~  
5153 ~~Constitution~~ shall be paid from the disability account of the  
5154 Florida Retirement System Trust Fund.

5155 (n) *Death of retiree or beneficiary.*—Upon the death of a  
5156 disabled retiree or beneficiary of the retiree ~~thereof~~ who is  
5157 receiving monthly disability benefits under this subsection, the  
5158 monthly benefits shall be paid through the last day of the month  
5159 of death and shall terminate, or be adjusted, if applicable, as  
5160 of that date in accordance with the optional form of benefit  
5161 selected at the time of retirement. The department ~~of Management~~  
5162 ~~Services~~ may adopt rules necessary to administer this paragraph.

20112100er

5163 (3) DEATH BENEFITS.—Under the Florida Retirement System  
5164 Investment Plan ~~Public Employee Optional Retirement Program:~~

5165 (a) Survivor benefits are ~~shall be~~ payable in accordance  
5166 with the following terms and conditions:

5167 1. To the extent vested, benefits are ~~shall be~~ payable only  
5168 to a member's participant's beneficiary or beneficiaries as  
5169 designated by the member participant as provided in s.  
5170 121.4501(20).

5171 2. Benefits shall be paid by the third-party administrator  
5172 or designated approved providers in accordance with the law, the  
5173 contracts, and any applicable state board rule or policy.

5174 3. To receive benefits ~~under this subsection~~, the member  
5175 ~~participant~~ must be deceased.

5176 (b) In the event of a member's participant's death, all  
5177 vested accumulations as described in s. 121.4501(6), less  
5178 withholding taxes remitted to the Internal Revenue Service,  
5179 shall be distributed, as provided in paragraph (c) or as  
5180 described in s. 121.4501(20), as if the member participant  
5181 retired on the date of death. No other death benefits are ~~shall~~  
5182 ~~be~~ available for survivors of members participants ~~under the~~  
5183 ~~Public Employee Optional Retirement Program~~, except for such  
5184 benefits, or coverage for ~~such~~ benefits, as are otherwise  
5185 provided by law or ~~are~~ separately provided ~~afforded~~ by the  
5186 employer, at the employer's discretion.

5187 (c) Upon receipt by the third-party administrator of a  
5188 properly executed application for distribution of benefits, the  
5189 total accumulated benefit is ~~shall be~~ payable by the third-party  
5190 administrator to the member's participant's surviving  
5191 beneficiary or beneficiaries, as:

20112100er

5192 1. A lump-sum distribution payable to the beneficiary or  
5193 beneficiaries, or to the deceased member's ~~participant's~~ estate;

5194 2. An eligible rollover distribution, if permitted, on  
5195 behalf of the surviving spouse of a deceased member ~~participant~~,  
5196 whereby all accrued benefits, plus interest and investment  
5197 earnings, are paid from the deceased member's ~~participant's~~  
5198 account directly to the custodian of an eligible retirement  
5199 plan, as described in s. 402(c)(8)(B) of the Internal Revenue  
5200 Code, on behalf of the surviving spouse; or

5201 3. A partial lump-sum payment whereby a portion of the  
5202 accrued benefit is paid to the deceased member's ~~participant's~~  
5203 surviving spouse or other designated beneficiaries, less  
5204 withholding taxes remitted to the Internal Revenue Service, and  
5205 the remaining amount is transferred directly to the custodian of  
5206 an eligible retirement plan, if permitted, as described in s.  
5207 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
5208 surviving spouse. The proportions must be specified by the  
5209 member ~~participant~~ or the surviving beneficiary.

5210  
5211 This paragraph does not abrogate other applicable provisions of  
5212 state or federal law providing for payment of death benefits.

5213 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to  
5214 any person under the Florida Retirement System Investment Plan  
5215 ~~Public Employee Optional Retirement Program~~, and any  
5216 contributions accumulated under the plan ~~such program~~, are not  
5217 subject to assignment, execution, attachment, or any legal  
5218 process, except for qualified domestic relations orders by a  
5219 court of competent jurisdiction, income deduction orders as  
5220 provided in s. 61.1301, and federal income tax levies.

20112100er

5221 Section 31. Section 121.5911, Florida Statutes, is amended  
5222 to read:

5223 121.5911 Disability retirement program; qualified status;  
5224 rulemaking authority.—It is the intent of the Legislature that  
5225 the disability retirement program for members ~~participants~~ of  
5226 the Florida Retirement System Investment Plan ~~Public Employee~~  
5227 ~~Optional Retirement Program as created in this act~~ must meet all  
5228 applicable requirements of federal law for a qualified plan. The  
5229 department ~~of Management Services~~ shall seek a private letter  
5230 ruling from the Internal Revenue Service on the disability  
5231 retirement program ~~for participants of the Public Employee~~  
5232 ~~Optional Retirement Program~~. Consistent with the private letter  
5233 ruling, the department ~~of Management Services~~ shall adopt any  
5234 necessary rules ~~necessary~~ ~~required~~ to maintain the qualified  
5235 status of the disability retirement program and the Florida  
5236 Retirement System Pension ~~defined benefit~~ Plan.

5237 Section 32. Section 121.70, Florida Statutes, is amended to  
5238 read:

5239 121.70 Legislative purpose and intent.—

5240 (1) This part provides for a uniform system for funding  
5241 benefits provided under the Florida Retirement System Pension  
5242 Plan ~~defined benefit program~~ established under part I of this  
5243 chapter (referred to in this part as the pension plan ~~defined~~  
5244 ~~benefit program~~) and under the Florida Retirement System  
5245 Investment Plan ~~Public Employee Optional Retirement Program~~  
5246 established under part II of this chapter (referred to in this  
5247 part as the investment plan ~~optional retirement program~~). The  
5248 Legislature recognizes and declares that the Florida Retirement  
5249 System is a single retirement system, consisting of two

20112100er

5250 retirement plans and other nonintegrated programs. Employees and  
5251 employers participating in the Florida Retirement System  
5252 collectively shall be responsible for making contributions to  
5253 support the benefits provided ~~afforded~~ under both plans. The  
5254 employees and ~~As provided in this part,~~ employers ~~participating~~  
5255 ~~in the Florida Retirement System~~ shall make contributions based  
5256 upon uniform contribution rates determined as a percentage of  
5257 the employee's gross monthly compensation ~~total payroll~~ for the  
5258 employee's ~~each~~ class or subclass of Florida Retirement System  
5259 membership, irrespective of the ~~which~~ retirement plan in which  
5260 the individual employee is enrolled ~~employees may elect~~. This  
5261 shall be known as a uniform or blended contribution rate system.

5262 (2) In establishing a uniform contribution rate system, it  
5263 is the intent of the Legislature to:

5264 (a) Provide greater stability and certainty in financial  
5265 planning and budgeting for Florida Retirement System employers  
5266 by eliminating the fiscal instability that would be caused by  
5267 dual rates coupled with employee-selected plan participation;

5268 (b) Provide greater fiscal equity and uniformity for system  
5269 employers by effectively distributing the financial burden and  
5270 benefit of short-term system deficits and surpluses,  
5271 respectively, in proportion to total system payroll; and

5272 (c) Allow employees to make their retirement plan selection  
5273 decisions free of circumstances that may cause employers to  
5274 favor one plan choice over another.

5275 Section 33. Section 121.71, Florida Statutes, is amended to  
5276 read:

5277 121.71 Uniform rates; process; calculations; levy.—

5278 (1) In conducting the system actuarial study required under

20112100er

5279 s. 121.031, the actuary shall follow all requirements specified  
5280 ~~thereunder~~ to determine, by Florida Retirement System employee  
5281 membership class, the dollar contribution amounts necessary for  
5282 the next forthcoming fiscal year for the pension plan defined  
5283 ~~benefit program~~. In addition, the actuary shall determine, by  
5284 Florida Retirement System membership class, based on an estimate  
5285 for the next forthcoming fiscal year of the gross compensation  
5286 of employees participating in the investment plan optional  
5287 ~~retirement program~~, the dollar contribution amounts necessary to  
5288 make the allocations required under ss. 121.72 and 121.73. For  
5289 each employee membership class and subclass, the actuarial study  
5290 must shall establish a uniform rate necessary to fund the  
5291 benefit obligations under both Florida Retirement System  
5292 retirement plans by dividing the sum of total dollars required  
5293 by the estimated gross compensation of members in both plans.

5294 (2) Based on the uniform rates set forth in subsections  
5295 ~~subsection~~ (3), (4), and (5), employees and employers shall make  
5296 monthly contributions to the Division of Retirement as required  
5297 in s. 121.061(1), which shall initially deposit the funds into  
5298 the Florida Retirement System Contributions Clearing Trust Fund.  
5299 A change in a contribution rate is effective the first day of  
5300 the month for which a full month's employer and employee  
5301 contribution may be made on or after the beginning date of the  
5302 change. Beginning July 1, 2011, each employee shall contribute  
5303 the contributions required in subsection (3). The employer shall  
5304 deduct the contribution from the employee's monthly salary, and  
5305 the contribution shall be submitted to the division. These  
5306 contributions shall be reported as employer-paid employee  
5307 contributions, and credited to the account of the employee. The

20112100er

5308 contributions shall be deducted from the employee's salary  
5309 before the computation of applicable federal taxes and treated  
5310 as employer contributions under 26 U.S.C. s. 414(h)(2). The  
5311 employer specifies that the contributions, although designated  
5312 as employee contributions, are being paid by the employer in  
5313 lieu of contributions by the employee. The employee does not  
5314 have the option of choosing to receive the contributed amounts  
5315 directly instead of having them paid by the employer to the  
5316 plan. Such contributions are mandatory and each employee is  
5317 considered to have consented to payroll deductions. Payment of  
5318 an employee's salary or wages, less the contribution, is a full  
5319 and complete discharge and satisfaction of all claims and  
5320 demands for the service rendered by employees during the period  
5321 covered by the payment, except their claims to the benefits to  
5322 which they may be entitled under this chapter.

5323 (3) Required employee retirement contribution rates for  
5324 each membership class and subclass of the Florida Retirement  
5325 System for both retirement plans are as follows:  
5326

<u>Membership Class</u>	<u>Percentage of Gross Compensation, Effective July 1, 2011</u>
<u>Regular Class</u>	<u>3.00%</u>
<u>Special Risk Class</u>	<u>3.00%</u>
<u>Special Risk Administrative</u>	<u>3.00%</u>



20112100er

5330	<u>Support Class</u>	
	<u>Elected Officers' Class-</u>	<u>3.00%</u>
	<u>Legislators, Governor,</u>	
	<u>Lt. Governor,</u>	
	<u>Cabinet Officers,</u>	
	<u>State Attorneys,</u>	
	<u>Public Defenders</u>	
5331	<u>Elected Officers' Class-</u>	<u>3.00%</u>
	<u>Justices, Judges</u>	
5332	<u>Elected Officers' Class-</u>	<u>3.00%</u>
	<u>County Elected Officers</u>	
5333	<u>Senior Management Service</u>	<u>3.00%</u>
	<u>Class</u>	
5334	<u>DROP</u>	<u>0.00%</u>

5335

5336        (4)~~(3)~~ Required employer retirement contribution rates for

5337 each membership class and subclass of the Florida Retirement

5338 System for both retirement plans are as follows:

5339

Membership Class	Percentage of Gross Compensation, Effective July 1, <u>2011</u>	Percentage of Gross Compensation, Effective July 1, <u>2012</u>
------------------	---	---

		20112100er	
		2009	2010
5340			
5341			
5342	Regular Class	<u>3.28%</u> <del>8.69%</del>	<u>3.28%</u> <del>9.63%</del>
5343	Special Risk Class	<u>10.21%</u> <del>19.76%</del>	<u>10.21%</u> <del>22.11%</del>
5344	Special Risk Administrative Support Class	<u>4.07%</u> <del>11.39%</del>	<u>4.07%</u> <del>12.10%</del>
5345	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>7.02%</u> <del>13.32%</del>	<u>7.02%</u> <del>15.20%</del>
5346	Elected Officers' Class— Justices, Judges	<u>9.78%</u> <del>18.40%</del>	<u>9.78%</u> <del>20.65%</del>
5347	Elected Officers' Class— County Elected Officers	<u>9.27%</u> <del>15.37%</del>	<u>9.27%</u> <del>17.50%</del>
5348	Senior Management <u>Service</u> Class	<u>4.81%</u> <del>11.96%</del>	<u>4.81%</u> <del>13.43%</del>
	DROP	<u>3.31%</u> <del>9.80%</del>	<u>3.31%</u> <del>11.14%</del>

20112100er

5349  
5350  
5351  
5352  
5353  
5354  
5355

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

5356  
5357  
5358  
5359

<u>Membership Class</u>	<u>Percentage of Gross Compensation, Effective July 1, 2011</u>	<u>Percentage of Gross Compensation, Effective July 1, 2012</u>
<u>Regular Class</u>	<u>0.49%</u>	<u>2.16%</u>
<u>Special Risk Class</u>	<u>2.75%</u>	<u>8.21%</u>
<u>Special Risk Administrative Support Class</u>	<u>0.83%</u>	<u>21.40%</u>
<u>Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders</u>	<u>0.88%</u>	<u>21.76%</u>

5360

Elected Officers' Class— 0.77% 12.86%

20112100er

Justices, Judges

5361

Elected Officers' Class-                      0.73%                      22.05%

County Elected Officers

5362

Senior Management                      0.32%                      10.51%

Service Class

5363

DROP                      0.00%                      6.36%

5364

5365            (6) If a member is reported under an incorrect membership  
5366 class and the amount of contributions reported and remitted are  
5367 less than the amount required, the employer shall owe the  
5368 difference, plus the delinquent fee, of 1 percent for each  
5369 calendar month or part thereof that the contributions should  
5370 have been paid. The delinquent assessment may not be waived. If  
5371 the contributions reported and remitted are more than the amount  
5372 required, the employer shall receive a credit to be applied  
5373 against future contributions owed.

5374            (7)~~(4)~~ The state actuary shall recognize and use an  
5375 appropriate level of available excess assets of the Florida  
5376 Retirement System Trust Fund to offset the difference between  
5377 the normal costs of the Florida Retirement System and the  
5378 statutorily prescribed contribution rates.

5379            Section 34. Section 121.72, Florida Statutes, is amended to  
5380 read:

5381            121.72 Allocations to investment plan member ~~optional~~  
5382 ~~retirement program participant~~ accounts; percentage amounts.—

5383            (1) The allocations established in subsection (4) shall

20112100er

5384 fund retirement benefits under the investment plan ~~optional~~  
5385 ~~retirement program~~ and shall be transferred monthly by the  
5386 Division of Retirement from the Florida Retirement System  
5387 Contributions Clearing Trust Fund to the third-party  
5388 administrator for deposit in each participating employee's  
5389 individual account based on the membership class of the  
5390 participant.

5391 (2) The allocations are stated as a percentage of each  
5392 investment plan member's ~~optional retirement program~~  
5393 ~~participant's~~ gross compensation for the calendar month. A  
5394 change in a contribution percentage is effective the first day  
5395 of the month for which retirement contributions ~~a full month's~~  
5396 ~~employer contribution~~ may be made on or after the beginning date  
5397 of the change. Contribution percentages may be modified by  
5398 general law.

5399 (3) Employer and employee ~~participant~~ contributions to  
5400 member ~~participant~~ accounts shall be accounted for separately.  
5401 ~~Participant contributions may be made only if expressly~~  
5402 ~~authorized by law.~~ Interest and investment earnings on  
5403 contributions shall accrue on a tax-deferred basis until  
5404 proceeds are distributed.

5405 (4) Effective July 1, 2002, allocations from the Florida  
5406 Retirement System Contributions Clearing Trust Fund to  
5407 investment plan member ~~optional retirement program participant~~  
5408 accounts are ~~shall be~~ as follows:

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

5409  
Regular Class 9.00%

20112100er

5410	Special Risk Class	20.00%
5411	Special Risk Administrative Support Class	11.35%
5412	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.40%
5413	Elected Officers' Class— Justices, Judges	18.90%
5414	Elected Officers' Class— County Elected Officers	16.20%
5415	Senior Management Service Class	10.95%

5416  
5417 Section 35. Section 121.73, Florida Statutes, is amended to  
5418 read:

5419 121.73 Allocations for member ~~optional retirement program~~  
5420 ~~participant~~ disability coverage; percentage amounts.—

5421 (1) The allocations established in subsection (3) shall be  
5422 used to provide disability coverage for members ~~participants~~ in  
5423 the investment plan ~~optional retirement program~~ and shall be  
5424 transferred monthly by the Division of Retirement from the  
5425 Florida Retirement System Contributions Clearing Trust Fund to

20112100er

5426 the disability account of the Florida Retirement System Trust  
5427 Fund.

5428 (2) The allocations are stated as a percentage of each  
5429 investment plan member's ~~optional retirement program~~  
5430 ~~participant's~~ gross compensation for the calendar month. A  
5431 change in a contribution percentage is effective the first day  
5432 of the month for which retirement contributions ~~a full month's~~  
5433 ~~employer contribution~~ may be made on or after the beginning date  
5434 of the change. Contribution percentages may be modified by  
5435 general law.

5436 (3) Effective July 1, 2002, allocations from the Florida  
5437 Retirement System Contributions ~~FRS Contribution~~ Clearing Trust  
5438 Fund to provide disability coverage for members ~~participants~~ in  
5439 the investment plan ~~optional retirement program~~, and to offset  
5440 the costs of administering said coverage, are ~~shall be~~ as  
5441 follows:

5442

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,	0.41%

20112100er

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

5447

Elected Officers' Class- 0.73%  
Justices, Judges

5448

Elected Officers' Class- 0.41%  
County Elected Officers

5449

Senior Management Service Class 0.26%

5450

5451 Section 36. Section 121.74, Florida Statutes, is amended to  
5452 read:

5453 121.74 Administrative and educational expenses.—In addition  
5454 to contributions required under ss. ~~ss.~~ 121.71 and 121.73,  
5455 effective July 1, 2010, through June 30, 2014, employers  
5456 participating in the Florida Retirement System shall contribute  
5457 an amount equal to 0.03 percent of the payroll reported for each  
5458 class or subclass of Florida Retirement System membership.+  
5459 Effective July 1, 2014, the contribution rate shall be 0.04  
5460 percent of the payroll reported for each class or subclass of  
5461 membership. The amount contributed shall be transferred by the  
5462 Division of Retirement from the Florida Retirement System  
5463 Contributions Clearing Trust Fund to the State Board of  
5464 Administration's Administrative Trust Fund to offset the costs  
5465 of administering the investment plan ~~optional retirement program~~  
5466 and the costs of providing educational services to members of  
5467 the Florida Retirement System ~~participants in the defined~~  
5468 ~~benefit program and the optional retirement program~~. Approval of



20112100er

5469 the trustees is required before the expenditure of these funds.  
5470 Payments for third-party administrative or educational expenses  
5471 shall be made only pursuant to the terms of the approved  
5472 contracts for such services.

5473 Section 37. Section 121.75, Florida Statutes, is amended to  
5474 read:

5475 121.75 Allocation for pension plan ~~defined benefit~~  
5476 ~~program~~.—After making the transfers required pursuant to ss.  
5477 121.71, 121.72, 121.73, and 121.74, the monthly balance of funds  
5478 in the Florida Retirement System Contributions Clearing Trust  
5479 Fund shall be transferred to the Florida Retirement System Trust  
5480 Fund to pay the costs of providing pension plan ~~defined benefit~~  
5481 ~~program~~ benefits and plan administrative costs under the pension  
5482 plan ~~defined benefit program~~.

5483 Section 38. Section 121.77, Florida Statutes, is amended to  
5484 read:

5485 121.77 Deductions from member ~~participant~~ accounts.—The  
5486 State Board of Administration may authorize the third-party  
5487 administrator to deduct reasonable fees and apply appropriate  
5488 charges to investment plan member ~~optional retirement program~~  
5489 ~~participant~~ accounts. In no event may ~~shall~~ administrative and  
5490 educational expenses exceed the portion of employer  
5491 contributions earmarked for such expenses under this part,  
5492 except for reasonable administrative charges assessed against  
5493 member ~~participant~~ accounts of persons for whom no employer  
5494 contributions are made during the calendar quarter. Investment  
5495 management fees shall be deducted from member ~~participant~~  
5496 accounts, pursuant to the terms of the contract between the  
5497 provider and the board.

20112100er

5498 Section 39. Section 121.78, Florida Statutes, is amended to  
5499 read:

5500 121.78 Payment and distribution of contributions.—

5501 (1) Contributions made pursuant to this part shall be paid  
5502 by the employer, including the employee contribution, to the  
5503 Division of Retirement by electronic funds transfer no later  
5504 than the 5th working day of the month immediately following the  
5505 month during which the payroll period ended. Accompanying  
5506 payroll data must be transmitted to the division concurrent with  
5507 the contributions.

5508 (2) The division, the State Board of Administration, and  
5509 the third-party administrator, as applicable, shall ensure that  
5510 the contributions are distributed to the appropriate trust funds  
5511 or participant accounts in a timely manner.

5512 (3) (a) Employee and employer contributions and accompanying  
5513 payroll data received after the 5th working day of the month are  
5514 considered late. The employer shall be assessed by the Division  
5515 of Retirement a penalty of 1 percent of the contributions due  
5516 for each calendar month or part thereof that the contributions  
5517 or accompanying payroll data are late. Proceeds from the 1  
5518 percent ~~1-percent~~ assessment against contributions made on  
5519 behalf of members ~~participants~~ of the pension plan ~~must defined~~  
5520 ~~benefit program shall~~ be deposited in the Florida Retirement  
5521 System Trust Fund, and proceeds from the 1-percent assessment  
5522 against contributions made on behalf of members ~~participants~~ of  
5523 the investment plan ~~optional retirement program~~ shall be  
5524 transferred to the third-party administrator for deposit into  
5525 member ~~participant~~ accounts, as provided in paragraph (c) ~~(b)~~.

5526 (b) Retirement contributions paid for a prior period shall

20112100er

5527 be charged a delinquent fee of 1 percent for each calendar month  
5528 or part thereof that the contributions should have been paid.  
5529 This includes prior period contributions due to incorrect wages  
5530 and contributions from an earlier report or wages and  
5531 contributions that should have been reported but were not. The  
5532 delinquent assessments may not be waived.

5533 (c) ~~(b)~~ If employee contributions or contributions made by  
5534 an employer on behalf of members participants of the investment  
5535 plan ~~optional retirement program~~ or accompanying payroll data  
5536 are not received within the calendar month they are due,  
5537 including, but not limited to, contribution adjustments as a  
5538 result of employer errors or corrections, and if that  
5539 delinquency results in market losses to members participants,  
5540 the employer shall reimburse each member's participant's account  
5541 for market losses resulting from the late contributions. If a  
5542 member participant has terminated employment and taken a  
5543 distribution, the member participant is responsible for  
5544 returning any excess contributions erroneously provided by  
5545 employers, adjusted for any investment gain or loss incurred  
5546 during the period such excess contributions were in the member's  
5547 participant's account. The state board or its designated agent  
5548 shall communicate to terminated members participants any  
5549 obligation to repay such excess contribution amounts. However,  
5550 the state board, its designated agents, the Florida Retirement  
5551 System Investment Plan ~~Public Employee Optional Retirement~~  
5552 ~~Program~~ Trust Fund, the department, or the Florida Retirement  
5553 System Trust Fund may not incur any loss or gain as a result of  
5554 an employer's correction of such excess contributions. The  
5555 third-party administrator, hired by the state board pursuant to

20112100er

5556 s. 121.4501(8), shall calculate the market losses for each  
5557 affected member participant. If contributions made on behalf of  
5558 members participants of the investment plan ~~optional retirement~~  
5559 ~~program~~ or accompanying payroll data are not received within the  
5560 calendar month due, the employer shall also pay the cost of the  
5561 third-party administrator's calculation and reconciliation  
5562 adjustments resulting from the late contributions. The third-  
5563 party administrator shall notify the employer of the results of  
5564 the calculations and the total amount due from the employer for  
5565 such losses and the costs of calculation and reconciliation. The  
5566 employer shall remit to the Division of Retirement the amount  
5567 due within 30 working days after the date of the penalty notice  
5568 sent by the division. The division shall transfer that amount to  
5569 the third-party administrator, which shall deposit proceeds from  
5570 the 1-percent assessment and from individual market losses into  
5571 member participant accounts, as appropriate. The state board may  
5572 adopt rules to administer the provisions regarding late  
5573 contributions, late submission of payroll data, the process for  
5574 reimbursing member participant accounts for resultant market  
5575 losses, and the penalties charged to the employers.

5576 (d) If employee contributions reported by an employer on  
5577 behalf of members are reduced as a result of employer errors or  
5578 corrections, and the member has terminated employment and taken  
5579 a refund or distribution, the employer shall be billed and is  
5580 responsible for recovering from the member any excess  
5581 contributions erroneously provided by the employer.

5582 (e) (e) Delinquency fees specified in paragraph (a) may be  
5583 waived by the division of Retirement, with regard to pension  
5584 plan defined benefit program contributions, and by the state

20112100er

5585 board, with regard to investment plan ~~optional retirement~~  
5586 ~~program~~ contributions, only if, in the opinion of the division  
5587 or the board, as appropriate, exceptional circumstances beyond  
5588 the employer's control prevented remittance by the prescribed  
5589 due date notwithstanding the employer's good faith efforts to  
5590 effect delivery. Such a waiver of delinquency may be granted an  
5591 employer only once each plan ~~state fiscal~~ year.

5592 (f) If the employer submits excess employer or employee  
5593 contributions, the employer shall receive a credit to be applied  
5594 against future contributions owed. The employer is responsible  
5595 for reimbursing the member for any excess contributions  
5596 submitted if any return of such an erroneous excess pretax  
5597 contribution by the program is made within 1 year after making  
5598 erroneous contributions or such other period allowed under  
5599 applicable Internal Revenue guidance.

5600 (g) ~~(d)~~ If contributions made by an employer on behalf of  
5601 members ~~participants~~ in the investment plan ~~optional retirement~~  
5602 ~~program~~ are delayed in posting to member ~~participant~~ accounts  
5603 due to acts of God beyond the control of the Division of  
5604 Retirement, the state board, or the third-party administrator,  
5605 as applicable, market losses resulting from the late  
5606 contributions are not payable to the members ~~participants~~.

5607 Section 40. Paragraph (a) of subsection (4) and paragraph  
5608 (b) of subsection (5) of section 1012.875, Florida Statutes, are  
5609 amended, and subsection (7) is added to that section, to read:

5610 1012.875 State Community College System Optional Retirement  
5611 Program.—Each community college may implement an optional  
5612 retirement program, if such program is established therefor  
5613 pursuant to s. 1001.64(20), under which annuity or other

20112100er

5614 contracts providing retirement and death benefits may be  
5615 purchased by, and on behalf of, eligible employees who  
5616 participate in the program, in accordance with s. 403(b) of the  
5617 Internal Revenue Code. Except as otherwise provided herein, this  
5618 retirement program, which shall be known as the State Community  
5619 College System Optional Retirement Program, may be implemented  
5620 and administered only by an individual community college or by a  
5621 consortium of community colleges.

5622 (4) (a) 1. Through June 30, 2011, each college must  
5623 contribute on behalf of each program member ~~participant~~ an  
5624 amount equal to 10.43 percent of the employee's ~~participant's~~  
5625 gross monthly compensation.

5626 2. Effective July 1, 2011, each member shall contribute an  
5627 amount equal to the employee contribution required under s.  
5628 121.71(3). The employer shall contribute on behalf of each  
5629 program member an amount equal to the difference between 10.43  
5630 percent of the employee's gross monthly compensation and the  
5631 employee's required contribution based on the employee's gross  
5632 monthly compensation.

5633 3. The college shall deduct an amount approved by the  
5634 district board of trustees of the college to provide for the  
5635 administration of the optional retirement program. Payment of  
5636 this contribution must be made ~~either~~ directly by the college or  
5637 through the program administrator to the designated company  
5638 contracting for payment of benefits to the program member  
5639 ~~participant~~.

5640 (5)

5641 (b) Benefits are payable under the optional retirement  
5642 program to program participants or their beneficiaries, and ~~the~~

20112100er

5643 ~~benefits must be~~ paid only by the designated company in  
5644 accordance with the terms of the contracts applicable to the  
5645 program participant. Benefits shall accrue in individual  
5646 accounts that are participant-directed, portable, and funded by  
5647 employer and employee contributions and the earnings thereon.  
5648 Benefits funded by employer and employee contributions are  
5649 payable in accordance with the following terms and conditions:

5650 1. Benefits shall be payable only to a participant, to his  
5651 or her beneficiaries, or to his or her estate, as designated by  
5652 the participant.

5653 2. Benefits shall be paid by the provider company or  
5654 companies in accordance with the law, the provisions of the  
5655 contract, and any applicable employer rule or policy.

5656 3. In the event of a participant's death, moneys  
5657 accumulated by, or on behalf of, the participant, less  
5658 withholding taxes remitted to the Internal Revenue Service, if  
5659 any, shall be distributed to the participant's designated  
5660 beneficiary or beneficiaries, or to the participant's estate, as  
5661 if the participant retired on the date of death as provided in  
5662 paragraph (d). No other death benefits are ~~shall be~~ available  
5663 for survivors of participants under the optional retirement  
5664 program except for such benefits, or coverage for such benefits,  
5665 as are separately afforded by the employer at the employer's  
5666 discretion.

5667 (7) Benefits, including employee contributions, are not  
5668 payable for employee hardships, unforeseeable emergencies,  
5669 loans, medical expenses, educational expenses, purchase of a  
5670 principal residence, payments necessary to prevent eviction or  
5671 foreclosure on an employee's principal residence, or any other

20112100er

5672 reason before termination from all employment relationships with  
5673 participating employers for 3 calendar months.

5674 Section 41. (1) Effective upon this act becoming a law, the  
5675 State Board of Administration and the Department of Management  
5676 Services shall request, as soon as practicable, a determination  
5677 letter and private letter ruling from the United States Internal  
5678 Revenue Service. If the United States Internal Revenue Service  
5679 refuses to act upon a request for a private letter ruling, then  
5680 a legal opinion from a qualified tax attorney or firm may be  
5681 substituted for such private letter ruling.

5682 (2) If the board or the department receives notification  
5683 from the United States Internal Revenue Service that this act or  
5684 any portion of this act will cause the Florida Retirement  
5685 System, or a portion thereof, to be disqualified for tax  
5686 purposes under the Internal Revenue Code, then the portion that  
5687 will cause the disqualification does not apply. Upon receipt of  
5688 such notice, the state board and the department shall notify the  
5689 presiding officers of the Legislature.

5690 Section 42. The Legislature finds that a proper and  
5691 legitimate state purpose is served when employees and retirees  
5692 of the state and its political subdivisions, and the dependents,  
5693 survivors, and beneficiaries of such employees and retirees, are  
5694 extended the basic protections afforded by governmental  
5695 retirement systems. These persons must be provided benefits that  
5696 are fair and adequate and that are managed, administered, and  
5697 funded in an actuarially sound manner, as required by s. 14,  
5698 Article X of the State Constitution and part VII of chapter 112,  
5699 Florida Statutes. Therefore, the Legislature determines and  
5700 declares that this act fulfills an important state interest.



20112100er

5701           Section 43. For the 2011-2012 fiscal year, the sums of  
5702 \$207,070 of recurring funds and \$31,184 of nonrecurring funds  
5703 from the Florida Retirement System Operating Trust Fund are  
5704 appropriated to, and four full-time equivalent positions are  
5705 authorized for, the Division of Retirement within the Department  
5706 of Management Services for the purpose of implementing this act.

5707           Section 44. Except as otherwise expressly provided in this  
5708 act and except for this section, which shall take effect upon  
5709 this act becoming a law, this act shall take effect July 1,  
5710 2011.