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1 A bill to be entitled
2 An act relating to the Florida Retirement System;
3 amending s. 121.021, F.S.; revising definitions of the
4 terms "normal retirement date" and "vested" or
5 "vesting"; amending s. 121.091, F.S.; revising
6 provisions relating to the early retirement benefit
7 calculation to conform to changes made by the act;
8 amending s. 121.4501, F.S.; requiring new employees
9 to, by default, be enrolled in the investment plan;
10 extending the period during which employees may elect
11 to participate in the pension plan; prohibiting
12 certain employees from choosing to move to the pension
13 plan after a certain period; providing an effective
14 date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Paragraph (b) of subsection (29) and paragraph
19 (b) of subsection (45) of section 121.021, Florida Statutes, are
20 amended, and paragraph (c) is added to subsection (45) of that
21 section, to read:

22 121.021 Definitions.—The following words and phrases as
23 used in this chapter have the respective meanings set forth
24 unless a different meaning is plainly required by the context:

25 (29) "Normal retirement date" means the date a member
26 attains normal retirement age and is vested, which is determined
27 as follows:

28 (b)1. If a Special Risk Class member initially enrolled

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29 before July 1, 2011:

30 a. The first day of the month the member attains age 55
31 and completes the years of creditable service in the Special
32 Risk Class equal to or greater than the years of service
33 required for vesting;

34 b. The first day of the month following the date the
35 member completes 25 years of creditable service in the Special
36 Risk Class, regardless of age; or

37 c. The first day of the month following the date the
38 member completes 25 years of creditable service and attains age
39 52, which service may include a maximum of 4 years of military
40 service credit if such credit is not claimed under any other
41 system and the remaining years are in the Special Risk Class.

42 2. If a Special Risk Class member initially enrolled on or
43 after July 1, 2011, but before July 1, 2012:

44 a. The first day of the month the member attains age 60
45 and completes the years of creditable service in the Special
46 Risk Class equal to or greater than the years of service
47 required for vesting;

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

51 c. The first day of the month following the date the
52 member completes 30 years of creditable service and attains age
53 57, which service may include a maximum of 4 years of military
54 service credit if such credit is not claimed under any other
55 system and the remaining years are in the Special Risk Class.

56 3. If a Special Risk Class member initially enrolled on or

57 after July 1, 2012:

58 a. The first day of the month the member attains age 55
 59 and completes the years of creditable service in the Special
 60 Risk Class equal to or greater than the years of service
 61 required for vesting;

62 b. The first day of the month the member attains age 48
 63 and completes 25 years of creditable service in the Special Risk
 64 Class; or

65 c. The first day of the month following the date the
 66 member completes 25 years of creditable service and attains age
 67 52, which service may include a maximum of 4 years of military
 68 service credit if such credit is not claimed under any other
 69 system and the remaining years are in the Special Risk Class.

70
 71 "Normal retirement age" is attained on the "normal retirement
 72 date."

73 (45) "Vested" or "vesting" means the guarantee that a
 74 member is eligible to receive a future retirement benefit upon
 75 completion of the required years of creditable service for the
 76 employee's class of membership, even though the member may have
 77 terminated covered employment before reaching normal or early
 78 retirement date. Being vested does not entitle a member to a
 79 disability benefit. Provisions governing entitlement to
 80 disability benefits are set forth under s. 121.091(4).

81 (b) Any member initially enrolled in the Florida
 82 Retirement System on or after July 1, 2011, but before July 1,
 83 2012, shall be vested upon completion of 8 years of creditable
 84 service.

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85 (c) Any member initially enrolled in the Florida
86 Retirement System on or after July 1, 2012, shall be vested upon
87 completion of 10 years of creditable service.

88 Section 2. Paragraph (a) of subsection (3) of section
89 121.091, Florida Statutes, is amended to read:

90 121.091 Benefits payable under the system.—Benefits may
91 not be paid under this section unless the member has terminated
92 employment as provided in s. 121.021(39) (a) or begun
93 participation in the Deferred Retirement Option Program as
94 provided in subsection (13), and a proper application has been
95 filed in the manner prescribed by the department. The department
96 may cancel an application for retirement benefits when the
97 member or beneficiary fails to timely provide the information
98 and documents required by this chapter and the department's
99 rules. The department shall adopt rules establishing procedures
100 for application for retirement benefits and for the cancellation
101 of such application when the required information or documents
102 are not received.

103 (3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or
104 her early retirement date, the member shall receive an immediate
105 monthly benefit that shall begin to accrue on the first day of
106 the month of the retirement date and be payable on the last day
107 of that month and each month thereafter during his or her
108 lifetime. Such benefit shall be calculated as follows:

109 (a) For a member initially enrolled:

110 1. Before July 1, 2011, the amount of each monthly payment
111 shall be computed in the same manner as for a normal retirement
112 benefit, in accordance with subsection (1), but shall be based

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113 on the member's average monthly compensation and creditable
114 service as of the member's early retirement date. The benefit so
115 computed shall be reduced by five-twelfths of 1 percent for each
116 complete month by which the early retirement date precedes the
117 normal retirement date of age 62 for a member of the Regular
118 Class, Senior Management Service Class, or the Elected Officers'
119 Class, and age 55 for a member of the Special Risk Class, or age
120 52 if a Special Risk member has completed 25 years of creditable
121 service in accordance with s. 121.021(29)(b)1.c.

122 2. On or after July 1, 2011, but before July 1, 2012, the
123 amount of each monthly payment shall be computed in the same
124 manner as for a normal retirement benefit, in accordance with
125 subsection (1), but shall be based on the member's average
126 monthly compensation and creditable service as of the member's
127 early retirement date. The benefit so computed shall be reduced
128 by five-twelfths of 1 percent for each complete month by which
129 the early retirement date precedes the normal retirement date of
130 age 65 for a member of the Regular Class, Senior Management
131 Service Class, or the Elected Officers' Class, and age 60 for a
132 member of the Special Risk Class, or age 57 if a Special Risk
133 member has completed 30 years of creditable service in
134 accordance with s. 121.021(29)(b)2.c.

135 3. On or after July 1, 2012, the amount of each monthly
136 payment shall be computed in the same manner as for a normal
137 retirement benefit, in accordance with subsection (1), but shall
138 be based on the member's average monthly compensation and
139 creditable service as of the member's early retirement date. The
140 benefit so computed shall be reduced by five-twelfths of 1

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141 percent for each complete month by which the early retirement
142 date precedes the normal retirement date of age 62 for a member
143 of the Regular Class, Senior Management Service Class, or the
144 Elected Officers' Class, and age 55 for a member of the Special
145 Risk Class, or age 48 if a Special Risk member has completed 25
146 years of creditable service in accordance with s.
147 121.021(29)(b)3.c.

148 Section 3. Subsection (4) of section 121.4501, Florida
149 Statutes, is amended to read:

150 121.4501 Florida Retirement System Investment Plan.—

151 (4) PARTICIPATION; ENROLLMENT.—

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

155 a. Any such employee may elect to participate in the
156 investment plan in lieu of retaining his or her membership in
157 the pension plan. The election must be made in writing or by
158 electronic means and must be filed with the third-party
159 administrator by August 31, 2002, or, in the case of an active
160 employee who is on a leave of absence on April 1, 2002, by the
161 last business day of the 5th month following the month the leave
162 of absence concludes. This election is irrevocable, except as
163 provided in paragraph (g). Upon making such election, the
164 employee shall be enrolled as a member of the investment plan,
165 the employee's membership in the Florida Retirement System is
166 governed by the provisions of this part, and the employee's
167 membership in the pension plan terminates. The employee's
168 enrollment in the investment plan is effective the first day of

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169 the month for which a full month's employer contribution is made
170 to the investment plan.

171 b. Any such employee who fails to elect to participate in
172 the investment plan within the prescribed time period is deemed
173 to have elected to retain membership in the pension plan, and
174 the employee's option to elect to participate in the investment
175 plan is forfeited.

176 2. With respect to employees who become eligible to
177 participate in the investment plan by reason of employment in a
178 regularly established position with a state employer commencing
179 after April 1, 2002, but before July 1, 2012:

180 a. Any such employee shall, by default, be enrolled in the
181 pension plan at the commencement of employment, and may, by the
182 last business day of the 5th month following the employee's
183 month of hire, elect to participate in the investment plan. The
184 employee's election must be made in writing or by electronic
185 means and must be filed with the third-party administrator. The
186 election to participate in the investment plan is irrevocable,
187 except as provided in paragraph (g).

188 b. If the employee files such election within the
189 prescribed time period, enrollment in the investment plan is
190 effective on the first day of employment. The retirement
191 contributions paid through the month of the employee plan change
192 shall be transferred to the investment program, and, effective
193 the first day of the next month, the employer and employee must
194 pay the applicable contributions based on the employee
195 membership class in the program.

196 c. An employee who fails to elect to participate in the

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197 investment plan within the prescribed time period is deemed to
198 have elected to retain membership in the pension plan, and the
199 employee's option to elect to participate in the investment plan
200 is forfeited.

201 3. With respect to employees who become eligible to
202 participate in the investment plan pursuant to s.
203 121.051(2)(c)3. or s. 121.35(3)(i), the employee may elect to
204 participate in the investment plan in lieu of retaining his or
205 her membership in the State Community College System Optional
206 Retirement Program or the State University System Optional
207 Retirement Program. The election must be made in writing or by
208 electronic means and must be filed with the third-party
209 administrator. This election is irrevocable, except as provided
210 in paragraph (g). Upon making such election, the employee shall
211 be enrolled as a member in the investment plan, the employee's
212 membership in the Florida Retirement System is governed by the
213 provisions of this part, and the employee's participation in the
214 State Community College System Optional Retirement Program or
215 the State University System Optional Retirement Program
216 terminates. The employee's enrollment in the investment plan is
217 effective on the first day of the month for which a full month's
218 employer and employee contribution is made to the investment
219 plan.

220 4. With respect to employees who become eligible to
221 participate in the investment plan by reason of employment in a
222 regularly established position with a state employer commencing
223 on or after July 1, 2012:

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

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225 investment plan at the commencement of employment, and may, by
226 the last business day of the 12th month following the employee's
227 month of hire, elect to participate in the pension plan. The
228 employee's election must be made in writing or by electronic
229 means and must be filed with the third-party administrator.

230 b. If the employee files such election within the
231 prescribed time period, enrollment in the pension plan is
232 effective on the first day of employment. The present value of
233 his or her retirement contributions under the investment plan
234 paid through the month of the employee plan change shall be
235 transferred to the pension plan, and, effective the first day of
236 the next month, the employer and employee must pay the
237 applicable contributions based on the employee membership class
238 in the pension plan.

239 c. An employee who fails to elect to participate in the
240 pension plan within the prescribed time period is deemed to have
241 elected to retain membership in the investment plan, and the
242 employee's option to elect to participate in the pension plan is
243 forfeited.

244 5.4. For purposes of this paragraph, "state employer"
245 means any agency, board, branch, commission, community college,
246 department, institution, institution of higher education, or
247 water management district of the state, which participates in
248 the Florida Retirement System for the benefit of certain
249 employees.

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

253 a. Any such employee may elect to participate in the
 254 investment plan in lieu of retaining his or her membership in
 255 the pension plan. The election must be made in writing or by
 256 electronic means and must be filed with the third-party
 257 administrator by November 30, or, in the case of an active
 258 employee who is on a leave of absence on July 1, 2002, by the
 259 last business day of the 5th month following the month the leave
 260 of absence concludes. This election is irrevocable, except as
 261 provided in paragraph (g). Upon making such election, the
 262 employee shall be enrolled as a member of the investment plan,
 263 the employee's membership in the Florida Retirement System is
 264 governed by the provisions of this part, and the employee's
 265 membership in the pension plan terminates. The employee's
 266 enrollment in the investment plan is effective the first day of
 267 the month for which a full month's employer contribution is made
 268 to the investment program.

269 b. Any such employee who fails to elect to participate in
 270 the investment plan within the prescribed time period is deemed
 271 to have elected to retain membership in the pension plan, and
 272 the employee's option to elect to participate in the investment
 273 plan is forfeited.

274 2. With respect to employees who become eligible to
 275 participate in the investment plan by reason of employment in a
 276 regularly established position with a district school board
 277 employer commencing after July 1, 2002, but before July 1, 2012:

278 a. Any such employee shall, by default, be enrolled in the
 279 pension plan at the commencement of employment, and may, by the
 280 last business day of the 5th month following the employee's

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281 month of hire, elect to participate in the investment plan. The
282 employee's election must be made in writing or by electronic
283 means and must be filed with the third-party administrator. The
284 election to participate in the investment plan is irrevocable,
285 except as provided in paragraph (g).

286 b. If the employee files such election within the
287 prescribed time period, enrollment in the investment plan is
288 effective on the first day of employment. The employer
289 retirement contributions paid through the month of the employee
290 plan change shall be transferred to the investment plan, and,
291 effective the first day of the next month, the employer shall
292 pay the applicable contributions based on the employee
293 membership class in the investment plan.

294 c. Any such employee who fails to elect to participate in
295 the investment plan within the prescribed time period is deemed
296 to have elected to retain membership in the pension plan, and
297 the employee's option to elect to participate in the investment
298 plan is forfeited.

299 3. With respect to employees who become eligible to
300 participate in the investment plan by reason of employment in a
301 regularly established position with a district school board
302 employer commencing on or after July 1, 2012:

303 a. Any such employee shall, by default, be enrolled in the
304 investment plan at the commencement of employment, and may, by
305 the last business day of the 12th month following the employee's
306 month of hire, elect to participate in the pension plan. The
307 employee's election must be made in writing or by electronic
308 means and must be filed with the third-party administrator.

309 b. If the employee files such election within the
310 prescribed time period, enrollment in the pension plan is
311 effective on the first day of employment. The present value of
312 his or her retirement contributions under the investment plan
313 paid through the month of the employee plan change shall be
314 transferred to the pension plan, and, effective the first day of
315 the next month, the employer shall pay the applicable
316 contributions based on the employee membership class in the
317 pension plan.

318 c. Any such employee who fails to elect to participate in
319 the pension plan within the prescribed time period is deemed to
320 have elected to retain membership in the investment plan, and
321 the employee's option to elect to participate in the pension
322 plan is forfeited.

323 ~~4.3.~~ For purposes of this paragraph, "district school
324 board employer" means any district school board that
325 participates in the Florida Retirement System for the benefit of
326 certain employees, or a charter school or charter technical
327 career center that participates in the Florida Retirement System
328 as provided in s. 121.051(2)(d).

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

332 a. Any such employee may elect to participate in the
333 investment plan in lieu of retaining his or her membership in
334 the pension plan. The election must be made in writing or by
335 electronic means and must be filed with the third-party
336 administrator by February 28, 2003, or, in the case of an active

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337 employee who is on a leave of absence on October 1, 2002, by the
338 last business day of the 5th month following the month the leave
339 of absence concludes. This election is irrevocable, except as
340 provided in paragraph (g). Upon making such election, the
341 employee shall be enrolled as a participant of the investment
342 plan, the employee's membership in the Florida Retirement System
343 is governed by the provisions of this part, and the employee's
344 membership in the pension plan terminates. The employee's
345 enrollment in the investment plan is effective the first day of
346 the month for which a full month's employer contribution is made
347 to the investment plan.

348 b. Any such employee who fails to elect to participate in
349 the investment plan within the prescribed time period is deemed
350 to have elected to retain membership in the pension plan, and
351 the employee's option to elect to participate in the investment
352 plan is forfeited.

353 2. With respect to employees who become eligible to
354 participate in the investment plan by reason of employment in a
355 regularly established position with a local employer commencing
356 after October 1, 2002, but before July 1, 2012:

357 a. Any such employee shall, by default, be enrolled in the
358 pension plan at the commencement of employment, and may, by the
359 last business day of the 5th month following the employee's
360 month of hire, elect to participate in the investment plan. The
361 employee's election must be made in writing or by electronic
362 means and must be filed with the third-party administrator. The
363 election to participate in the investment plan is irrevocable,
364 except as provided in paragraph (g).

365 b. If the employee files such election within the
366 prescribed time period, enrollment in the investment plan is
367 effective on the first day of employment. The employer
368 retirement contributions paid through the month of the employee
369 plan change shall be transferred to the investment plan, and,
370 effective the first day of the next month, the employer shall
371 pay the applicable contributions based on the employee
372 membership class in the investment plan.

373 c. Any such employee who fails to elect to participate in
374 the investment plan within the prescribed time period is deemed
375 to have elected to retain membership in the pension plan, and
376 the employee's option to elect to participate in the investment
377 plan is forfeited.

378 3. With respect to employees who become eligible to
379 participate in the investment plan by reason of employment in a
380 regularly established position with a local employer commencing
381 on or after July 1, 2012:

382 a. Any such employee shall, by default, be enrolled in the
383 investment plan at the commencement of employment, and may, by
384 the last business day of the 12th month following the employee's
385 month of hire, elect to participate in the pension plan. The
386 employee's election must be made in writing or by electronic
387 means and must be filed with the third-party administrator.

388 b. If the employee files such election within the
389 prescribed time period, enrollment in the pension plan is
390 effective on the first day of employment. The present value of
391 his or her employer retirement contributions under the
392 investment plan paid through the month of the employee plan

393 change shall be transferred to the pension plan, and, effective
394 the first day of the next month, the employer shall pay the
395 applicable contributions based on the employee membership class
396 in the pension plan.

397 c. Any such employee who fails to elect to participate in
398 the pension plan within the prescribed time period is deemed to
399 have elected to retain membership in the investment plan, and
400 the employee's option to elect to participate in the pension
401 plan is forfeited.

402 ~~4.3.~~ For purposes of this paragraph, "local employer"
403 means any employer not included in paragraph (a) or paragraph
404 (b).

405 (d) Contributions available for self-direction by a member
406 who has not selected one or more specific investment products
407 shall be allocated as prescribed by the state board. The third-
408 party administrator shall notify the member at least quarterly
409 that the member should take an affirmative action to make an
410 asset allocation among the investment products.

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

415 (f) A member of the investment plan who takes a
416 distribution of any contributions from his or her investment
417 plan account is considered a retiree. A retiree who is initially
418 reemployed on or after July 1, 2010, is not eligible for renewed
419 membership.

420 (g) After the period during which an eligible employee had

421 the choice to elect the pension plan or the investment plan, or
422 the month following the receipt of the eligible employee's plan
423 election, if sooner, the employee shall have one opportunity, at
424 the employee's discretion, to choose to move from the pension
425 plan to the investment plan or from the investment plan to the
426 pension plan. However, employees initially enrolled in the
427 investment plan on or after July 1, 2012, may not move from the
428 investment plan to the pension plan after the close of the
429 initial prescribed time period to do so. Eligible employees may
430 elect to move between plans only if they are earning service
431 credit in an employer-employee relationship consistent with s.
432 121.021(17)(b), excluding leaves of absence without pay.
433 Effective July 1, 2005, such elections are effective on the
434 first day of the month following the receipt of the election by
435 the third-party administrator and are not subject to the
436 requirements regarding an employer-employee relationship or
437 receipt of contributions for the eligible employee in the
438 effective month, except when the election is received by the
439 third-party administrator. This paragraph is contingent upon
440 approval by the Internal Revenue Service.

441 1. If the employee chooses to move to the investment plan,
442 the provisions of subsection (3) govern the transfer.

443 2. If the employee chooses to move to the pension plan,
444 the employee must transfer from his or her investment plan
445 account, and from other employee moneys as necessary, a sum
446 representing the present value of that employee's accumulated
447 benefit obligation immediately following the time of such
448 movement, determined assuming that attained service equals the

449 sum of service in the pension plan and service in the investment
450 plan. Benefit commencement occurs on the first date the employee
451 is eligible for unreduced benefits, using the discount rate and
452 other relevant actuarial assumptions that were used to value the
453 pension plan liabilities in the most recent actuarial valuation.
454 For any employee who, at the time of the second election,
455 already maintains an accrued benefit amount in the pension plan,
456 the then-present value of the accrued benefit is deemed part of
457 the required transfer amount. The division must ensure that the
458 transfer sum is prepared using a formula and methodology
459 certified by an enrolled actuary. A refund of any employee
460 contributions or additional member payments made which exceed
461 the employee contributions that would have accrued had the
462 member remained in the pension plan and not transferred to the
463 investment plan is not permitted.

464 3. Notwithstanding subparagraph 2., an employee who
465 chooses to move to the pension plan and who became eligible to
466 participate in the investment plan by reason of employment in a
467 regularly established position with a state employer after June
468 1, 2002; a district school board employer after September 1,
469 2002; or a local employer after December 1, 2002, must transfer
470 from his or her investment plan account, and from other employee
471 moneys as necessary, a sum representing the employee's actuarial
472 accrued liability. A refund of any employee contributions or
473 additional participant payments made which exceed the employee
474 contributions that would have accrued had the member remained in
475 the pension plan and not transferred to the investment plan is
476 not permitted.

477 4. An employee's ability to transfer from the pension plan
478 to the investment plan pursuant to paragraphs (a)-(d), and the
479 ability of a current employee to have an option to later
480 transfer back into the pension plan under subparagraph 2., shall
481 be deemed a significant system amendment. Pursuant to s.
482 121.031(4), any resulting unfunded liability arising from actual
483 original transfers from the pension plan to the investment plan
484 must be amortized within 30 plan years as a separate unfunded
485 actuarial base independent of the reserve stabilization
486 mechanism defined in s. 121.031(3)(f). For the first 25 years, a
487 direct amortization payment may not be calculated for this base.
488 During this 25-year period, the separate base shall be used to
489 offset the impact of employees exercising their second program
490 election under this paragraph. The actuarial funded status of
491 the pension plan will not be affected by such second program
492 elections in any significant manner, after due recognition of
493 the separate unfunded actuarial base. Following the initial 25-
494 year period, any remaining balance of the original separate base
495 shall be amortized over the remaining 5 years of the required
496 30-year amortization period.

497 5. If the employee chooses to transfer from the investment
498 plan to the pension plan and retains an excess account balance
499 in the investment plan after satisfying the buy-in requirements
500 under this paragraph, the excess may not be distributed until
501 the member retires from the pension plan. The excess account
502 balance may be rolled over to the pension plan and used to
503 purchase service credit or upgrade creditable service in the
504 pension plan.

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Section 4. This act shall take effect July 1, 2012.