

HB 7079

2012

1                   A bill to be entitled  
2     An act relating to state retirement; creating s.  
3     121.012, F.S.; providing applicability; amending s.  
4     121.021, F.S.; clarifying the definitions of the terms  
5     "normal retirement date" and "vesting"; amending s.  
6     121.0515, F.S.; correcting a cross-reference; amending  
7     s. 121.055, F.S.; clarifying provisions related to the  
8     prohibition of hardship loans or payments; clarifying  
9     that a retiree who is reemployed in a regularly  
10    established position after a certain date may not be  
11    enrolled as a renewed member; amending s. 121.071,  
12    F.S.; clarifying provisions related to the prohibition  
13    of hardship loans or payments; amending s. 121.091,  
14    F.S.; making conforming changes to the Deferred  
15    Retirement Option Program regarding deferral age;  
16    amending s. 121.122, F.S.; clarifying that a retiree  
17    who is reemployed in a regularly established position  
18    after a certain date may not be enrolled as a renewed  
19    member; amending s. 121.35, F.S.; providing that a  
20    benefit for the purposes of the optional retirement  
21    program for the State University System includes a  
22    certain distribution; clarifying provisions related to  
23    the prohibition of hardship loans or payments;  
24    clarifying when voluntary contributions may be paid  
25    out; amending s. 121.4501, F.S.; specifying that the  
26    definition of the term "eligible employee" does not  
27    include certain members reemployed in regularly  
28    established positions; clarifying that a retiree who

29 is reemployed in a regularly established position  
 30 after a certain date may not be enrolled as a renewed  
 31 member; amending s. 121.591, F.S.; clarifying  
 32 provisions related to the prohibition of hardship  
 33 loans or payments; amending s. 1012.875, F.S.;

34 clarifying provisions related to the prohibition of  
 35 hardship loans or payments; providing an effective  
 36 date.

37

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

39

40 Section 1. Section 121.012, Florida Statutes, is created  
 41 to read:

42 121.012 Inclusive provisions.—The provisions of part I of  
 43 this chapter shall be applicable to parts II and III to the  
 44 extent such provisions are not inconsistent with, or duplicative  
 45 of, the provisions of parts II and III.

46 Section 2. Subsection (29) and paragraph (b) of subsection  
 47 (45) of section 121.021, Florida Statutes, are amended to read:

48 121.021 Definitions.—The following words and phrases as  
 49 used in this chapter have the respective meanings set forth  
 50 unless a different meaning is plainly required by the context:

51 (29) "Normal retirement date" means the date a member  
 52 attains normal retirement age and is vested, which is determined  
 53 as follows:

54 (a)~~1.~~ If a Regular Class member, a Senior Management  
 55 Service Class member, or an Elected Officers' Class member  
 56 initially enrolled:

HB 7079

2012

- 57           1. Before July 1, 2011:
- 58           a. The first day of the month the member attains age 62;
- 59           or
- 60           b. The first day of the month following the date the
- 61           member completes 30 years of creditable service, regardless of
- 62           age.
- 63           ~~2. If a Regular Class member, a Senior Management Service~~
- 64           ~~Class member, or an Elected Officers' Class member initially~~
- 65           ~~enrolled~~ On or after July 1, 2011:
- 66           a. The first day of the month the member attains age 65;
- 67           or
- 68           b. The first day of the month following the date the
- 69           member completes 33 years of creditable service, regardless of
- 70           age.
- 71           (b)~~1~~. If a Special Risk Class member initially enrolled:
- 72           1. Before July 1, 2011:
- 73           a. The first day of the month the member attains age 55
- 74           and completes the years of creditable service in the Special
- 75           Risk Class equal to or greater than the years of service
- 76           required for vesting;
- 77           b. The first day of the month following the date the
- 78           member completes 25 years of creditable service in the Special
- 79           Risk Class, regardless of age; or
- 80           c. The first day of the month following the date the
- 81           member completes 25 years of creditable service and attains age
- 82           52, which service may include a maximum of 4 years of military
- 83           service credit if such credit is not claimed under any other
- 84           system and the remaining years are in the Special Risk Class.

85 |       2. ~~If a Special Risk Class member initially enrolled~~ On or  
 86 | after July 1, 2011:

87 |       a. The first day of the month the member attains age 60  
 88 | and completes the years of creditable service in the Special  
 89 | Risk Class equal to or greater than the years of service  
 90 | required for vesting;

91 |       b. The first day of the month following the date the  
 92 | member completes 30 years of creditable service in the Special  
 93 | Risk Class, regardless of age; or

94 |       c. The first day of the month following the date the  
 95 | member completes 30 years of creditable service and attains age  
 96 | 57, which service may include a maximum of 4 years of military  
 97 | service credit if such credit is not claimed under any other  
 98 | system and the remaining years are in the Special Risk Class.

99 |  
 100 | For pension plan members, "normal retirement age" is attained on  
 101 | the "normal retirement date." For investment plan members,  
 102 | normal retirement age is the date a member attains his or her  
 103 | normal retirement date as provided in this section, or the date  
 104 | a member is vested under the investment plan as provided in s.  
 105 | 121.4501(6), whichever is later.

106 |       (45) "Vested" or "vesting" means the guarantee that a  
 107 | member is eligible to receive a future retirement benefit upon  
 108 | completion of the required years of creditable service for the  
 109 | employee's class of membership, even though the member may have  
 110 | terminated covered employment before reaching normal or early  
 111 | retirement date. Being vested does not entitle a member to a  
 112 | disability benefit. Provisions governing entitlement to

113 disability benefits are set forth under s. 121.091(4).

114 (b) Any member initially enrolled in the Florida  
 115 Retirement System on or after July 1, 2011, shall be vested in  
 116 the pension plan upon completion of 8 years of creditable  
 117 service.

118 Section 3. Paragraph (k) of subsection (3) of section  
 119 121.0515, Florida Statutes, is amended to read:

120 121.0515 Special Risk Class.—

121 (3) CRITERIA.—A member, to be designated as a special risk  
 122 member, must meet the following criteria:

123 (k) The member must have already qualified for and be  
 124 actively participating in special risk membership under  
 125 paragraph (a), paragraph (b), or paragraph (c), must have  
 126 suffered a qualifying injury as defined in this paragraph, must  
 127 not be receiving disability retirement benefits as provided in  
 128 s. 121.091(4), and must satisfy the requirements of this  
 129 paragraph.

130 1. The ability to qualify for the class of membership  
 131 defined in paragraph (2)(i) ~~(2)(f)~~ occurs when two licensed  
 132 medical physicians, one of whom is a primary treating physician  
 133 of the member, certify the existence of the physical injury and  
 134 medical condition that constitute a qualifying injury as defined  
 135 in this paragraph and that the member has reached maximum  
 136 medical improvement after August 1, 2008. The certifications  
 137 from the licensed medical physicians must include, at a minimum,  
 138 that the injury to the special risk member has resulted in a  
 139 physical loss, or loss of use, of at least two of the following:  
 140 left arm, right arm, left leg, or right leg; and:

HB 7079

2012

141 a. That this physical loss or loss of use is total and  
142 permanent, except in the event that the loss of use is due to a  
143 physical injury to the member's brain, in which event the loss  
144 of use is permanent with at least 75 percent loss of motor  
145 function with respect to each arm or leg affected.

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

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

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

156 e. That the physical loss or loss of use is a direct  
157 result of a physical injury and not a result of any mental,  
158 psychological, or emotional injury.

159 2. For the purposes of this paragraph, "qualifying injury"  
160 means an injury sustained in the line of duty, as certified by  
161 the member's employing agency, by a special risk member that  
162 does not result in total and permanent disability as defined in  
163 s. 121.091(4)(b). An injury is a qualifying injury if the injury  
164 is a physical injury to the member's physical body resulting in  
165 a physical loss, or loss of use, of at least two of the  
166 following: left arm, right arm, left leg, or right leg.  
167 Notwithstanding any other provision of this section, an injury  
168 that would otherwise qualify as a qualifying injury is not

HB 7079

2012

169 considered a qualifying injury if and when the member ceases  
170 employment with the employer for whom he or she was providing  
171 special risk services on the date the injury occurred.

172 3. The new position, as described in sub-subparagraph  
173 1.c., that is required for qualification as a special risk  
174 member under this paragraph is not required to be a position  
175 with essential job functions that entitle an individual to  
176 special risk membership. Whether a new position as described in  
177 sub-subparagraph 1.c. exists and is available to the special  
178 risk member is a decision to be made solely by the employer in  
179 accordance with its hiring practices and applicable law.

180 4. This paragraph does not grant or create additional  
181 rights for any individual to continued employment or to be hired  
182 or rehired by his or her employer that are not already provided  
183 within the Florida Statutes, the State Constitution, the  
184 Americans with Disabilities Act, if applicable, or any other  
185 applicable state or federal law.

186 Section 4. Paragraph (f) of subsection (1) and paragraph  
187 (e) of subsection (6) of section 121.055, Florida Statutes, are  
188 amended to read:

189 121.055 Senior Management Service Class.—There is hereby  
190 established a separate class of membership within the Florida  
191 Retirement System to be known as the "Senior Management Service  
192 Class," which shall become effective February 1, 1987.

193 (1)

194 (f) Effective July 1, 1997:

195 1. Except as provided in subparagraph 3., an elected state  
196 officer eligible for membership in the Elected Officers' Class

HB 7079

2012

197 | under s. 121.052(2)(a), (b), or (c) who elects membership in the  
 198 | Senior Management Service Class under s. 121.052(3)(c) may,  
 199 | within 6 months after assuming office or within 6 months after  
 200 | this act becomes a law for serving elected state officers, elect  
 201 | to participate in the Senior Management Service Optional Annuity  
 202 | Program, as provided in subsection (6), in lieu of membership in  
 203 | the Senior Management Service Class.

204 |         2. Except as provided in subparagraph 3., an elected  
 205 | officer of a local agency employer eligible for membership in  
 206 | the Elected Officers' Class under s. 121.052(2)(d) who elects  
 207 | membership in the Senior Management Service Class under s.  
 208 | 121.052(3)(c) may, within 6 months after assuming office, or  
 209 | within 6 months after this act becomes a law for serving elected  
 210 | officers of a local agency employer, elect to withdraw from the  
 211 | Florida Retirement System, as provided in subparagraph (b)2., in  
 212 | lieu of membership in the Senior Management Service Class.

213 |         3. A retiree of a state-administered retirement system who  
 214 | is initially reemployed in a regularly established position on  
 215 | or after July 1, 2010, as an elected official eligible for the  
 216 | Elected Officers' Class may not be enrolled in renewed ~~renew~~  
 217 | membership in the Senior Management Service Class or in the  
 218 | Senior Management Service Optional Annuity Program as provided  
 219 | in subsection (6), and may not withdraw from the Florida  
 220 | Retirement System as a renewed member as provided in  
 221 | subparagraph (b)2., as applicable, in lieu of membership in the  
 222 | Senior Management Service Class.

223 |             (6)

224 |             (e) Benefits.—



225 1. Benefits under the Senior Management Service Optional  
 226 Annuity Program are payable only to members of the program, or  
 227 their beneficiaries as designated by the member in the contract  
 228 with the provider company, and must be paid by the designated  
 229 company in accordance with the terms of the annuity contract  
 230 applicable to the member. A member must be terminated from all  
 231 employment relationships with Florida Retirement System  
 232 employers for 3 calendar months to begin receiving the employer-  
 233 funded and employee-funded benefit. The member must meet the  
 234 definition of termination in s. 121.021(39) beginning the month  
 235 after receiving a benefit, including a distribution. Benefits  
 236 funded by employer and employee contributions are payable under  
 237 the terms of the contract to the member, his or her beneficiary,  
 238 or his or her estate, in addition to:

239 a. A lump-sum payment to the beneficiary upon the death of  
 240 the member;

241 b. A cash-out of a de minimis account upon the request of  
 242 a former member who has been terminated for a minimum of 6  
 243 calendar months from the employment that entitled him or her to  
 244 optional annuity program participation. Such cash-out must be a  
 245 complete liquidation of the account balance with that company  
 246 and is subject to the Internal Revenue Code;

247 c. A mandatory distribution of a de minimis account of a  
 248 former member who has been terminated for a minimum of 6  
 249 calendar months from the employment that entitled him or her to  
 250 optional annuity program participation as authorized by the  
 251 department; or

252 d. A lump-sum direct rollover distribution whereby all

HB 7079

2012

253 accrued benefits, plus interest and investment earnings, are  
254 paid from the member's account directly to the custodian of an  
255 eligible retirement plan, as defined in s. 402(c)(8)(B) of the  
256 Internal Revenue Code, on behalf of the member.

257 2. Under the Senior Management Service Optional Annuity  
258 Program, benefits, including employee contributions, are not  
259 payable for employee hardships, unforeseeable emergencies,  
260 loans, medical expenses, educational expenses, purchase of a  
261 principal residence, payments necessary to prevent eviction or  
262 foreclosure on an employee's principal residence, or any other  
263 reason except a requested distribution for retirement, a  
264 mandatory de minimis distribution authorized by the  
265 administrator, or a required minimum distribution provided  
266 pursuant to the Internal Revenue Code ~~before termination from~~  
267 ~~all employment relationships with participating employers for 3~~  
268 ~~calendar months.~~

269 3. The benefits payable to any person under the Senior  
270 Management Service Optional Annuity Program, and any  
271 contribution accumulated under such program, are not subject to  
272 assignment, execution, or attachment or to any legal process  
273 whatsoever.

274 4. Except as provided in subparagraph 5., a member who  
275 terminates employment and receives a distribution, including a  
276 rollover or trustee-to-trustee transfer, funded by employer and  
277 required employee contributions is a retiree of ~~deemed to be~~  
278 ~~retired from~~ a state-administered retirement system. A retiree  
279 of a state-administered retirement system who is initially  
280 reemployed in a regularly established position on or after July

HB 7079

2012

281 1, 2010, is not eligible to be enrolled in renewed membership ~~if~~  
 282 ~~the member is subsequently employed with an employer that~~  
 283 ~~participates in the Florida Retirement System.~~

284 5. A member who receives optional annuity program benefits  
 285 funded by employer and employee contributions as a mandatory  
 286 distribution of a de minimis account authorized by the  
 287 department is not considered a retiree.

288  
 289 As used in this paragraph, a "de minimis account" means an  
 290 account with a provider company containing employer and employee  
 291 contributions and accumulated earnings of not more than \$5,000  
 292 made under this chapter.

293 Section 5. Subsection (7) of section 121.071, Florida  
 294 Statutes, is amended to read:

295 121.071 Contributions.—Contributions to the system shall  
 296 be made as follows:

297 (7) ~~Before termination of employment,~~ Benefits, including  
 298 employee contributions, are not payable under the pension plan  
 299 for employee hardships, unforeseeable emergencies, loans,  
 300 medical expenses, educational expenses, purchase of a principal  
 301 residence, payments necessary to prevent eviction or foreclosure  
 302 on an employee's principal residence, or any other reason except  
 303 a requested distribution for retirement, a mandatory de minimis  
 304 distribution authorized by the administrator, or a required  
 305 minimum distribution provided pursuant to the Internal Revenue  
 306 Code before termination from all employment relationships with  
 307 participating employers.

308 Section 6. Paragraph (a) of subsection (13) of section

HB 7079

2012

309 121.091, Florida Statutes, is amended to read:

310 121.091 Benefits payable under the system.—Benefits may  
311 not be paid under this section unless the member has terminated  
312 employment as provided in s. 121.021(39) (a) or begun  
313 participation in the Deferred Retirement Option Program as  
314 provided in subsection (13), and a proper application has been  
315 filed in the manner prescribed by the department. The department  
316 may cancel an application for retirement benefits when the  
317 member or beneficiary fails to timely provide the information  
318 and documents required by this chapter and the department's  
319 rules. The department shall adopt rules establishing procedures  
320 for application for retirement benefits and for the cancellation  
321 of such application when the required information or documents  
322 are not received.

323 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and  
324 subject to this section, the Deferred Retirement Option Program,  
325 hereinafter referred to as DROP, is a program under which an  
326 eligible member of the Florida Retirement System may elect to  
327 participate, deferring receipt of retirement benefits while  
328 continuing employment with his or her Florida Retirement System  
329 employer. The deferred monthly benefits shall accrue in the  
330 Florida Retirement System on behalf of the member, plus interest  
331 compounded monthly, for the specified period of the DROP  
332 participation, as provided in paragraph (c). Upon termination of  
333 employment, the member shall receive the total DROP benefits and  
334 begin to receive the previously determined normal retirement  
335 benefits. Participation in the DROP does not guarantee  
336 employment for the specified period of DROP. Participation in

HB 7079

2012

337 DROP by an eligible member beyond the initial 60-month period as  
338 authorized in this subsection shall be on an annual contractual  
339 basis for all participants.

340 (a) Eligibility of member to participate in DROP.—All  
341 active Florida Retirement System members in a regularly  
342 established position, and all active members of the Teachers'  
343 Retirement System established in chapter 238 or the State and  
344 County Officers' and Employees' Retirement System established in  
345 chapter 122, which are consolidated within the Florida  
346 Retirement System under s. 121.011, are eligible to elect  
347 participation in DROP if:

348 1. The member is not a renewed member under s. 121.122 or  
349 a member of the State Community College System Optional  
350 Retirement Program under s. 121.051, the Senior Management  
351 Service Optional Annuity Program under s. 121.055, or the  
352 optional retirement program for the State University System  
353 under s. 121.35.

354 2. Except as provided in subparagraph 6., for members  
355 initially enrolled before July 1, 2011, election to participate  
356 is made within 12 months immediately following the date on which  
357 the member first reaches normal retirement date, or, for a  
358 member who reaches normal retirement date based on service  
359 before he or she reaches age 62, or age 55 for Special Risk  
360 Class members, election to participate may be deferred to the 12  
361 months immediately following the date the member attains age 57,  
362 or age 52 for Special Risk Class members. Except as provided in  
363 subparagraph 6., for members initially enrolled on or after July  
364 1, 2011, election to participate is made within 12 months

HB 7079

2012

365 immediately following the date on which the member first reaches  
366 normal retirement date, or, for a member who reaches normal  
367 retirement date based on service before he or she reaches age  
368 65, or age 60 for Special Risk Class members, election to  
369 participate may be deferred to the 12 months immediately  
370 following the date the member attains age 60, or age 55 for  
371 Special Risk Class members. A member who delays DROP  
372 participation during the 12-month period immediately following  
373 his or her maximum DROP deferral date, except as provided in  
374 subparagraph 6., loses a month of DROP participation for each  
375 month delayed. A member who fails to make an election within the  
376 12-month limitation period forfeits all rights to participate in  
377 DROP. The member shall advise his or her employer and the  
378 division in writing of the date DROP begins. The beginning date  
379 may be subsequent to the 12-month election period but must be  
380 within the original 60-month participation period provided in  
381 subparagraph (b)1. When establishing eligibility to participate  
382 in DROP, the member may elect to include or exclude any optional  
383 service credit purchased by the member from the total service  
384 used to establish the normal retirement date. A member who has  
385 dual normal retirement dates is eligible to elect to participate  
386 in DROP after attaining normal retirement date in either class.

387 3. The employer of a member electing to participate in  
388 DROP, or employers if dually employed, shall acknowledge in  
389 writing to the division the date the member's participation in  
390 DROP begins and the date the member's employment and DROP  
391 participation terminates.

392 4. Simultaneous employment of a member by additional

HB 7079

2012

393 Florida Retirement System employers subsequent to the  
394 commencement of a member's participation in DROP is permissible  
395 if such employers acknowledge in writing a DROP termination date  
396 no later than the member's existing termination date or the  
397 maximum participation period provided in subparagraph (b)1.

398 5. A member may change employers while participating in  
399 DROP, subject to the following:

400 a. A change of employment takes place without a break in  
401 service so that the member receives salary for each month of  
402 continuous DROP participation. If a member receives no salary  
403 during a month, DROP participation ceases unless the employer  
404 verifies a continuation of the employment relationship for such  
405 member pursuant to s. 121.021(39)(b).

406 b. The member and new employer notify the division of the  
407 identity of the new employer on forms required by the division.

408 c. The new employer acknowledges, in writing, the member's  
409 DROP termination date, which may be extended but not beyond the  
410 maximum participation period provided in subparagraph (b)1.,  
411 acknowledges liability for any additional retirement  
412 contributions and interest required if the member fails to  
413 timely terminate employment, and is subject to the adjustment  
414 required in sub-subparagraph (c)5.d.

415 6. Effective July 1, 2001, for instructional personnel as  
416 defined in s. 1012.01(2), election to participate in DROP may be  
417 made at any time following the date on which the member first  
418 reaches normal retirement date. The member shall advise his or  
419 her employer and the division in writing of the date on which  
420 DROP begins. When establishing eligibility of the member to

HB 7079

2012

421 participate in DROP for the 60-month participation period  
422 provided in subparagraph (b)1., the member may elect to include  
423 or exclude any optional service credit purchased by the member  
424 from the total service used to establish the normal retirement  
425 date. A member who has dual normal retirement dates is eligible  
426 to elect to participate in either class.

427 Section 7. Subsection (2) of section 121.122, Florida  
428 Statutes, is amended to read:

429 121.122 Renewed membership in system.—

430 (2) A retiree of a state-administered retirement system  
431 who is initially reemployed in a regularly established position  
432 on or after July 1, 2010, may not be enrolled as a renewed  
433 member is not eligible for renewed membership.

434 Section 8. Paragraphs (a), (b), and (g) of subsection (5)  
435 of section 121.35, Florida Statutes, are amended to read:

436 121.35 Optional retirement program for the State  
437 University System.—

438 (5) BENEFITS.—

439 (a) Benefits are payable under the optional retirement  
440 program only to vested members participating in the program, or  
441 their beneficiaries as designated by the member in the contract  
442 with a provider company, and such benefits shall be paid only by  
443 the designated company in accordance with s. 403(b) of the  
444 Internal Revenue Code and the terms of the annuity contract or  
445 investment contracts applicable to the member. A benefit under  
446 the optional retirement program is a distribution requested by  
447 the member or surviving beneficiary funded in part or in whole  
448 by employer or required employee contributions, plus earnings,



HB 7079

2012

449 and includes rolling a distribution over to another qualified  
450 plan. Benefits accrue in individual accounts that are member-  
451 directed, portable, and funded by employer and employee  
452 contributions and the earnings thereon. The member must be  
453 terminated for 3 calendar months from all employment  
454 relationships with all Florida Retirement System employers to  
455 begin receiving the benefit. Benefits funded by employer and  
456 required employee contributions are payable in accordance with  
457 the following terms and conditions:

458 1. Benefits shall be paid only to a participating member,  
459 to his or her beneficiaries, or to his or her estate, as  
460 designated by the member.

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

464 3. In the event of a member's death, moneys accumulated  
465 by, or on behalf of, the member, less withholding taxes remitted  
466 to the Internal Revenue Service, if any, shall be distributed to  
467 the member's designated beneficiary or beneficiaries, or to the  
468 member's estate, as if the member retired on the date of death,  
469 as provided in paragraph (d). No other death benefits are  
470 available to survivors of members under the optional retirement  
471 program except for such benefits, or coverage for such benefits,  
472 as are separately afforded by the employer, at the employer's  
473 discretion.

474 (b) Benefits, including employee contributions, are not  
475 payable for employee hardships, unforeseeable emergencies,  
476 loans, medical expenses, educational expenses, purchase of a

477 principal residence, payments necessary to prevent eviction or  
 478 foreclosure on an employee's principal residence, or any other  
 479 reason except a requested distribution for retirement, a  
 480 mandatory de minimis distribution authorized by the  
 481 administrator, or a required minimum distribution provided  
 482 pursuant to the Internal Revenue Code ~~before termination from~~  
 483 ~~all employment relationships with participating employers for 3~~  
 484 ~~calendar months.~~

485 (g) Benefits funded by the participating member's  
 486 voluntary personal contributions may be paid out after  
 487 termination from employment with all participating employers for  
 488 3 calendar months ~~at any time~~ and in any form within the limits  
 489 provided in the contract between the member and the provider  
 490 company. The member shall notify the provider company regarding  
 491 the date and provisions under which he or she wants to receive  
 492 the employee-funded portion of the plan.

493 Section 9. Paragraph (e) of subsection (2) and paragraph  
 494 (f) of subsection (4) of section 121.4501, Florida Statutes, are  
 495 amended to read:

496 121.4501 Florida Retirement System Investment Plan.—

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

498 (e) "Eligible employee" means an officer or employee, as  
 499 defined in s. 121.021, who:

500 1. Is a member of, or is eligible for membership in, the  
 501 Florida Retirement System, including any renewed member of the  
 502 Florida Retirement System initially enrolled before July 1,  
 503 2010; or

504 2. Participates in, or is eligible to participate in, the

HB 7079

2012

505 Senior Management Service Optional Annuity Program as  
 506 established under s. 121.055(6), the State Community College  
 507 System Optional Retirement Program as established under s.  
 508 121.051(2)(c), or the State University System Optional  
 509 Retirement Program established under s. 121.35.

510  
 511 The term does not include any member participating in the  
 512 Deferred Retirement Option Program established under s.  
 513 121.091(13), a retiree of a state-administered retirement system  
 514 initially reemployed in a regularly established position on or  
 515 after July 1, 2010, or a mandatory participant of the State  
 516 University System Optional Retirement Program established under  
 517 s. 121.35.

518 (4) PARTICIPATION; ENROLLMENT.—

519 (f) A member of the investment plan who takes a  
 520 distribution of any contributions from his or her investment  
 521 plan account is considered a retiree. A retiree who is initially  
 522 reemployed in a regularly established position on or after July  
 523 1, 2010, is not eligible to be enrolled in ~~for~~ renewed  
 524 membership.

525 Section 10. Section 121.591, Florida Statutes, is amended  
 526 to read:

527 121.591 Payment of benefits.—Benefits may not be paid  
 528 under the Florida Retirement System Investment Plan unless the  
 529 member has terminated employment as provided in s.  
 530 121.021(39)(a) or is deceased and a proper application has been  
 531 filed as prescribed by the state board or the department. ~~Before~~  
 532 ~~termination of employment,~~ Benefits, including employee

HB 7079

2012

533 contributions, are not payable under the investment plan for  
534 employee hardships, unforeseeable emergencies, loans, medical  
535 expenses, educational expenses, purchase of a principal  
536 residence, payments necessary to prevent eviction or foreclosure  
537 on an employee's principal residence, or any other reason except  
538 a requested distribution for retirement, a mandatory de minimis  
539 distribution authorized by the administrator, or a required  
540 minimum distribution provided pursuant to the Internal Revenue  
541 Code ~~prior to termination from all employment relationships with~~  
542 ~~participating employers~~. The state board or department, as  
543 appropriate, may cancel an application for retirement benefits  
544 if the member or beneficiary fails to timely provide the  
545 information and documents required by this chapter and the rules  
546 of the state board and department. In accordance with their  
547 respective responsibilities, the state board and the department  
548 shall adopt rules establishing procedures for application for  
549 retirement benefits and for the cancellation of such application  
550 if the required information or documents are not received. The  
551 state board and the department, as appropriate, are authorized  
552 to cash out a de minimis account of a member who has been  
553 terminated from Florida Retirement System covered employment for  
554 a minimum of 6 calendar months. A de minimis account is an  
555 account containing employer and employee contributions and  
556 accumulated earnings of not more than \$5,000 made under the  
557 provisions of this chapter. Such cash-out must be a complete  
558 lump-sum liquidation of the account balance, subject to the  
559 provisions of the Internal Revenue Code, or a lump-sum direct  
560 rollover distribution paid directly to the custodian of an

HB 7079

2012

561 eligible retirement plan, as defined by the Internal Revenue  
562 Code, on behalf of the member. Any nonvested accumulations and  
563 associated service credit, including amounts transferred to the  
564 suspense account of the Florida Retirement System Investment  
565 Plan Trust Fund authorized under s. 121.4501(6), shall be  
566 forfeited upon payment of any vested benefit to a member or  
567 beneficiary, except for de minimis distributions or minimum  
568 required distributions as provided under this section. If any  
569 financial instrument issued for the payment of retirement  
570 benefits under this section is not presented for payment within  
571 180 days after the last day of the month in which it was  
572 originally issued, the third-party administrator or other duly  
573 authorized agent of the state board shall cancel the instrument  
574 and credit the amount of the instrument to the suspense account  
575 of the Florida Retirement System Investment Plan Trust Fund  
576 authorized under s. 121.4501(6). Any amounts transferred to the  
577 suspense account are payable upon a proper application, not to  
578 include earnings thereon, as provided in this section, within 10  
579 years after the last day of the month in which the instrument  
580 was originally issued, after which time such amounts and any  
581 earnings attributable to employer contributions shall be  
582 forfeited. Any forfeited amounts are assets of the trust fund  
583 and are not subject to chapter 717.

584 (1) NORMAL BENEFITS.—Under the investment plan:

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

588 1. Benefits are payable only to a member, an alternate

589 payee of a qualified domestic relations order, or a beneficiary.

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

593 3. The member must be terminated from all employment with  
 594 all Florida Retirement System employers, as provided in s.  
 595 121.021(39).

596 4. Benefit payments may not be made until the member has  
 597 been terminated for 3 calendar months, except that the state  
 598 board may authorize by rule for the distribution of up to 10  
 599 percent of the member's account after being terminated for 1  
 600 calendar month if the member has reached the normal retirement  
 601 date as defined in s. 121.021.

602 5. If a member or former member of the Florida Retirement  
 603 System receives an invalid distribution, such person must either  
 604 repay the full amount within 90 days after receipt of final  
 605 notification by the state board or the third-party administrator  
 606 that the distribution was invalid, or, in lieu of repayment, the  
 607 member must terminate employment from all participating  
 608 employers. If such person fails to repay the full invalid  
 609 distribution within 90 days after receipt of final notification,  
 610 the person may be deemed retired from the investment plan by the  
 611 state board and is subject to s. 121.122. If such person is  
 612 deemed retired, any joint and several liability set out in s.  
 613 121.091(9)(d)2. is void, and the state board, the department, or  
 614 the employing agency is not liable for gains on payroll  
 615 contributions that have not been deposited to the person's  
 616 account in the investment plan, pending resolution of the

HB 7079

2012

617 | invalid distribution. The member or former member who has been  
618 | deemed retired or who has been determined by the state board to  
619 | have taken an invalid distribution may appeal the agency  
620 | decision through the complaint process as provided under s.  
621 | 121.4501(9)(g)3. As used in this subparagraph, the term "invalid  
622 | distribution" means any distribution from an account in the  
623 | investment plan which is taken in violation of this section, s.  
624 | 121.091(9), or s. 121.4501.

625 |       (b) If a member elects to receive his or her benefits upon  
626 | termination of employment as defined in s. 121.021, the member  
627 | must submit a written application or an application by  
628 | electronic means to the third-party administrator indicating his  
629 | or her preferred distribution date and selecting an authorized  
630 | method of distribution as provided in paragraph (c). The member  
631 | may defer receipt of benefits until he or she chooses to make  
632 | such application, subject to federal requirements.

633 |       (c) Upon receipt by the third-party administrator of a  
634 | properly executed application for distribution of benefits, the  
635 | total accumulated benefit is payable to the member pro rata  
636 | across all Florida Retirement System benefit sources as:

- 637 |       1. A lump-sum or partial distribution to the member;  
638 |       2. A lump-sum direct rollover distribution whereby all  
639 | accrued benefits, plus interest and investment earnings, are  
640 | paid from the member's account directly to the custodian of an  
641 | eligible retirement plan, as defined in s. 402(c)(8)(B) of the  
642 | Internal Revenue Code, on behalf of the member; or  
643 |       3. Periodic distributions, as authorized by the state  
644 | board.

HB 7079

2012

645 (d) The distribution payment method selected by the member  
646 or beneficiary, and the retirement of the member or beneficiary,  
647 is final and irrevocable at the time a benefit distribution  
648 payment is cashed, deposited, or transferred to another  
649 financial institution. Any additional service that remains  
650 unclaimed at retirement may not be claimed or purchased, and the  
651 type of retirement may not be changed, except that if a member  
652 recovers from a disability, the member may subsequently request  
653 benefits under subsection (2).

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

657 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided  
658 under this subsection are payable in lieu of the benefits that  
659 would otherwise be payable under the provisions of subsection  
660 (1). Such benefits must be funded from employer contributions  
661 made under s. 121.571, transferred employee contributions and  
662 funds accumulated pursuant to paragraph (a), and interest and  
663 earnings thereon.

664 (a) Transfer of funds.—To qualify to receive monthly  
665 disability benefits under this subsection:

666 1. All moneys accumulated in the member's account,  
667 including vested and nonvested accumulations as described in s.  
668 121.4501(6), must be transferred from such individual accounts  
669 to the division for deposit in the disability account of the  
670 Florida Retirement System Trust Fund. Such moneys must be  
671 accounted for separately. Earnings must be credited on an annual  
672 basis for amounts held in the disability accounts of the Florida



HB 7079

2012

673 Retirement System Trust Fund based on actual earnings of the  
674 trust fund.

675 2. If the member has retained retirement credit earned  
676 under the pension plan as provided in s. 121.4501(3), a sum  
677 representing the actuarial present value of such credit within  
678 the Florida Retirement System Trust Fund shall be reassigned by  
679 the division from the pension plan to the disability program as  
680 implemented under this subsection and shall be deposited in the  
681 disability account of the trust fund. Such moneys must be  
682 accounted for separately.

683 (b) Disability retirement; entitlement.—

684 1. A member of the investment plan who becomes totally and  
685 permanently disabled, as defined in paragraph (d), after  
686 completing 8 years of creditable service, or a member who  
687 becomes totally and permanently disabled in the line of duty  
688 regardless of length of service, is entitled to a monthly  
689 disability benefit.

690 2. In order for service to apply toward the 8 years of  
691 creditable service required for regular disability benefits, or  
692 toward the creditable service used in calculating a service-  
693 based benefit as provided under paragraph (g), the service must  
694 be creditable service as described below:

695 a. The member's period of service under the investment  
696 plan shall be considered creditable service, except as provided  
697 in subparagraph d.

698 b. If the member has elected to retain credit for service  
699 under the pension plan as provided under s. 121.4501(3), all  
700 such service shall be considered creditable service.

HB 7079

2012

701 c. If the member elects to transfer to his or her member  
702 accounts a sum representing the present value of his or her  
703 retirement credit under the pension plan as provided under s.  
704 121.4501(3), the period of service under the pension plan  
705 represented in the present value amounts transferred shall be  
706 considered creditable service, except as provided in  
707 subparagraph d.

708 d. If a member has terminated employment and has taken  
709 distribution of his or her funds as provided in subsection (1),  
710 all creditable service represented by such distributed funds is  
711 forfeited for purposes of this subsection.

712 (c) Disability retirement effective date.—The effective  
713 retirement date for a member who applies and is approved for  
714 disability retirement shall be established as provided under s.  
715 121.091(4)(a)2. and 3.

716 (d) Total and permanent disability.—A member shall be  
717 considered totally and permanently disabled if, in the opinion  
718 of the division, he or she is prevented, by reason of a  
719 medically determinable physical or mental impairment, from  
720 rendering useful and efficient service as an officer or  
721 employee.

722 (e) Proof of disability.— Before approving payment of any  
723 disability retirement benefit, the division shall require proof  
724 that the member is totally and permanently disabled as provided  
725 under s. 121.091(4)(c).

726 (f) Disability retirement benefit.—Upon the disability  
727 retirement of a member under this subsection, the member shall  
728 receive a monthly benefit that begins accruing on the first day

HB 7079

2012

729 of the month of disability retirement, as approved by the  
730 division, and is payable on the last day of that month and each  
731 month thereafter during his or her lifetime and continued  
732 disability. All disability benefits must be paid out of the  
733 disability account of the Florida Retirement System Trust Fund  
734 established under this subsection.

735 (g) Computation of disability retirement benefit.—The  
736 amount of each monthly payment must be calculated as provided  
737 under s. 121.091(4)(f). Creditable service under both the  
738 pension plan and the investment plan shall be applicable as  
739 provided under paragraph (b).

740 (h) Reapplication.—A member whose initial application for  
741 disability retirement is denied may reapply for disability  
742 benefits as provided in s. 121.091(4)(g).

743 (i) Membership.—Upon approval of a member's application  
744 for disability benefits, the member shall be transferred to the  
745 pension plan, effective upon his or her disability retirement  
746 effective date.

747 (j) Option to cancel.—A member whose application for  
748 disability benefits is approved may cancel the application if  
749 the cancellation request is received by the division before a  
750 disability retirement warrant has been deposited, cashed, or  
751 received by direct deposit. Upon cancellation:

752 1. The member's transfer to the pension plan under  
753 paragraph (i) shall be nullified;

754 2. The member shall be retroactively reinstated in the  
755 investment plan without hiatus;

756 3. All funds transferred to the Florida Retirement System

757 Trust Fund under paragraph (a) must be returned to the member  
 758 accounts from which the funds were drawn; and

759 4. The member may elect to receive the benefit payable  
 760 under subsection (1) in lieu of disability benefits.

761 (k) Recovery from disability.—

762 1. The division may require periodic reexaminations at the  
 763 expense of the disability program account of the Florida  
 764 Retirement System Trust Fund. Except as provided in subparagraph  
 765 2., all other matters relating to recovery from disability shall  
 766 be as provided under s. 121.091(4) (h).

767 2. Upon recovery from disability, the recipient of  
 768 disability retirement benefits under this subsection shall be a  
 769 compulsory member of the investment plan. The net difference  
 770 between the recipient's original account balance transferred to  
 771 the Florida Retirement System Trust Fund, including earnings and  
 772 total disability benefits paid to such recipient, if any, shall  
 773 be determined as provided in sub-subparagraph a.

774 a. An amount equal to the total benefits paid shall be  
 775 subtracted from that portion of the transferred account balance  
 776 consisting of vested accumulations as described under s.  
 777 121.4501(6), if any, and an amount equal to the remainder of  
 778 benefit amounts paid, if any, shall be subtracted from any  
 779 remaining nonvested accumulations.

780 b. Amounts subtracted under sub-subparagraph a. must be  
 781 retained within the disability account of the Florida Retirement  
 782 System Trust Fund. Any remaining account balance shall be  
 783 transferred to the third-party administrator for disposition as  
 784 provided under sub-subparagraph c. or sub-subparagraph d., as

785 appropriate.

786 c. If the recipient returns to covered employment,  
 787 transferred amounts must be deposited in individual accounts  
 788 under the investment plan, as directed by the member. Vested and  
 789 nonvested amounts shall be accounted for separately as provided  
 790 in s. 121.4501(6).

791 d. If the recipient fails to return to covered employment  
 792 upon recovery from disability:

793 (I) Any remaining vested amount must be deposited in  
 794 individual accounts under the investment plan, as directed by  
 795 the member, and is payable as provided in subsection (1).

796 (II) Any remaining nonvested amount must be held in a  
 797 suspense account and is forfeitable after 5 years as provided in  
 798 s. 121.4501(6).

799 3. If present value was reassigned from the pension plan  
 800 to the disability program as provided under subparagraph (a)2.,  
 801 the full present value amount must be returned to the defined  
 802 benefit account within the Florida Retirement System Trust Fund  
 803 and the member's associated retirement credit under the pension  
 804 plan must be reinstated in full. Any benefit based upon such  
 805 credit must be calculated as provided in s. 121.091(4)(h)1.

806 (l) Nonadmissible causes of disability.—A member is not  
 807 entitled to a disability retirement benefit if the disability  
 808 results from any injury or disease as described in s.  
 809 121.091(4)(i).

810 (m) Disability retirement of justice or judge by order of  
 811 Supreme Court.—

812 1. If a member is a justice of the Supreme Court, judge of

HB 7079

2012

813 a district court of appeal, circuit judge, or judge of a county  
814 court who has served for the years equal to, or greater than,  
815 the vesting requirement in s. 121.021(45) as an elected  
816 constitutional judicial officer, including service as a judicial  
817 officer in any court abolished pursuant to Art. V of the State  
818 Constitution, and who is retired for disability pursuant to s.  
819 12, Art. V of the State Constitution, the member's Option 1  
820 monthly disability benefit amount as provided in s.  
821 121.091(6)(a)1. shall be two-thirds of his or her monthly  
822 compensation as of the member's disability retirement date. The  
823 member may alternatively elect to receive an actuarially  
824 adjusted disability retirement benefit under any other option as  
825 provided in s. 121.091(6)(a) or to receive the normal benefit  
826 payable under subsection (1).

827 2. If any justice or judge who is a member of the  
828 investment plan is retired for disability pursuant to s. 12,  
829 Art. V of the State Constitution and elects to receive a monthly  
830 disability benefit under the provisions of this paragraph:

831 a. Any present value amount that was transferred to his or  
832 her investment plan account and all employer and employee  
833 contributions made to such account on his or her behalf, plus  
834 interest and earnings thereon, must be transferred to and  
835 deposited in the disability account of the Florida Retirement  
836 System Trust Fund; and

837 b. The monthly disability benefits payable under this  
838 paragraph shall be paid from the disability account of the  
839 Florida Retirement System Trust Fund.

840 (n) Death of retiree or beneficiary.—Upon the death of a

HB 7079

2012

841 disabled retiree or beneficiary of the retiree who is receiving  
842 monthly disability benefits under this subsection, the monthly  
843 benefits shall be paid through the last day of the month of  
844 death and shall terminate, or be adjusted, if applicable, as of  
845 that date in accordance with the optional form of benefit  
846 selected at the time of retirement. The department may adopt  
847 rules necessary to administer this paragraph.

848 (3) DEATH BENEFITS.—Under the Florida Retirement System  
849 Investment Plan:

850 (a) Survivor benefits are payable in accordance with the  
851 following terms and conditions:

852 1. To the extent vested, benefits are payable only to a  
853 member's beneficiary or beneficiaries as designated by the  
854 member as provided in s. 121.4501(20).

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

858 3. To receive benefits, the member must be deceased.

859 (b) In the event of a member's death, all vested  
860 accumulations as described in s. 121.4501(6), less withholding  
861 taxes remitted to the Internal Revenue Service, shall be  
862 distributed, as provided in paragraph (c) or as described in s.  
863 121.4501(20), as if the member retired on the date of death. No  
864 other death benefits are available for survivors of members,  
865 except for benefits, or coverage for benefits, as are otherwise  
866 provided by law or separately provided by the employer, at the  
867 employer's discretion.

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

869 properly executed application for distribution of benefits, the  
 870 total accumulated benefit is payable by the third-party  
 871 administrator to the member's surviving beneficiary or  
 872 beneficiaries, as:

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

875 2. An eligible rollover distribution, if permitted, on  
 876 behalf of the surviving spouse of a deceased member, whereby all  
 877 accrued benefits, plus interest and investment earnings, are  
 878 paid from the deceased member's account directly to the  
 879 custodian of an eligible retirement plan, as described in s.  
 880 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
 881 surviving spouse; or

882 3. A partial lump-sum payment whereby a portion of the  
 883 accrued benefit is paid to the deceased member's surviving  
 884 spouse or other designated beneficiaries, less withholding taxes  
 885 remitted to the Internal Revenue Service, and the remaining  
 886 amount is transferred directly to the custodian of an eligible  
 887 retirement plan, if permitted, as described in s. 402(c)(8)(B)  
 888 of the Internal Revenue Code, on behalf of the surviving spouse.  
 889 The proportions must be specified by the member or the surviving  
 890 beneficiary.

891  
 892 This paragraph does not abrogate other applicable provisions of  
 893 state or federal law providing for payment of death benefits.

894 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to  
 895 any person under the Florida Retirement System Investment Plan,  
 896 and any contributions accumulated under the plan, are not



897 subject to assignment, execution, attachment, or any legal  
 898 process, except for qualified domestic relations orders by a  
 899 court of competent jurisdiction, income deduction orders as  
 900 provided in s. 61.1301, and federal income tax levies.

901 Section 11. Subsection (7) of section 1012.875, Florida  
 902 Statutes, is amended to read:

903 1012.875 State Community College System Optional  
 904 Retirement Program.—Each Florida College System institution may  
 905 implement an optional retirement program, if such program is  
 906 established therefor pursuant to s. 1001.64(20), under which  
 907 annuity or other contracts providing retirement and death  
 908 benefits may be purchased by, and on behalf of, eligible  
 909 employees who participate in the program, in accordance with s.  
 910 403(b) of the Internal Revenue Code. Except as otherwise  
 911 provided herein, this retirement program, which shall be known  
 912 as the State Community College System Optional Retirement  
 913 Program, may be implemented and administered only by an  
 914 individual Florida College System institution or by a consortium  
 915 of Florida College System institutions.

916 (7) Benefits, including employee contributions, are not  
 917 payable for employee hardships, unforeseeable emergencies,  
 918 loans, medical expenses, educational expenses, purchase of a  
 919 principal residence, payments necessary to prevent eviction or  
 920 foreclosure on an employee's principal residence, or any other  
 921 reason except a requested distribution for retirement, a  
 922 mandatory de minimis distribution authorized by the  
 923 administrator, or a required minimum distribution provided  
 924 pursuant to the Internal Revenue Code ~~before termination from~~

HB 7079

2012

925 | ~~all employment relationships with participating employers for 3~~  
926 | ~~calendar months.~~

927 |       Section 12. This act shall take effect July 1, 2012.