

1 A bill to be entitled
2 An act relating to the Florida Retirement System;
3 amending s. 121.051, F.S.; limiting the ability of
4 members of an optional retirement program to transfer
5 to the Florida Retirement System; providing for
6 compulsory membership in the Florida Retirement System
7 Investment Plan for employees initially enrolled after
8 a specified date; authorizing certain employees to
9 participate in the investment plan; amending s.
10 121.052, F.S.; prohibiting members of the Elected
11 Officers' Class from joining the Senior Management
12 Service Class after a specified date; amending s.
13 121.055, F.S.; closing the Senior Management Service
14 Optional Annuity Program to new members after a
15 specified date; prohibiting an elected official
16 eligible for membership in the Elected Officers' Class
17 from enrolling in the Senior Management Service Class
18 or in the Senior Management Service Optional Annuity
19 Program; closing the Senior Management Service
20 Optional Annuity Program to new members after a
21 specified date; amending s. 121.35, F.S.; providing
22 that certain participants in the optional retirement
23 program for the State University System have a choice
24 between the optional retirement program and the
25 Florida Retirement System Investment Plan; providing
26 for compulsory membership in the investment plan for
27 certain employees; amending s. 121.4501, F.S.;
28 requiring certain employees initially enrolled in the

29 Florida Retirement System on or after a specified date
30 to be compulsory members of the investment plan;
31 providing for the transfer of certain contributions;
32 revising a provision relating to acknowledgment of an
33 employee's election to participate in the investment
34 plan; requiring the State Board of Administration to
35 develop investment products to be offered in the
36 investment plan; requiring the State Board of
37 Administration to provide a self-directed brokerage
38 account as an investment option; requiring the state
39 board to contract with a provider to provide a self-
40 directed brokerage account investment option;
41 providing self-directed brokerage account
42 requirements; revising the education component;
43 deleting the obligation of system employers to
44 communicate the existence of both retirement plans;
45 providing the state board and the provider of the
46 self-directed brokerage account investment option with
47 certain responsibilities; providing that the state
48 board is not required to deliver certain information
49 regarding the self-directed brokerage account; making
50 conforming changes; removing unnecessary language;
51 amending s. 121.591, F.S.; providing an additional
52 death benefit to specified members of the Special Risk
53 Class; amending ss. 238.072 and 413.051, F.S.;
54 conforming cross-references; adjusting the required
55 employer contribution rates for the unfunded actuarial
56 liability of the Florida Retirement System for select

57 | classes; providing a directive to the Division of Law
58 | Revision and Information; providing that the act does
59 | not modify or limit benefits available to current
60 | members except as specified; providing that the act
61 | fulfills an important state interest; requiring the
62 | State Board of Administration and the Department of
63 | Management Services to request a determination letter
64 | from the Internal Revenue Service; providing effective
65 | dates.

66 |
67 | Be It Enacted by the Legislature of the State of Florida:

68 |
69 | Section 1. Paragraph (c) of subsection (2) of section
70 | 121.051, Florida Statutes, is amended, subsections (3) through
71 | (9) of that section are renumbered as subsections (4) through
72 | (10), respectively, and a new subsection (3) is added to that
73 | section, to read:

74 | 121.051 Participation in the system.—

75 | (2) OPTIONAL PARTICIPATION.—

76 | (c) Employees of public community colleges or charter
77 | technical career centers sponsored by public community colleges,
78 | designated in s. 1000.21(3), who are members of the Regular
79 | Class of the Florida Retirement System and who comply with the
80 | criteria set forth in this paragraph and s. 1012.875 may, in
81 | lieu of participating in the Florida Retirement System, elect to
82 | withdraw from the system altogether and participate in the State
83 | Community College System Optional Retirement Program provided by
84 | the employing agency under s. 1012.875.

85 | 1.a. Through June 30, 2001, the cost to the employer for
86 | benefits under the optional retirement program equals the normal
87 | cost portion of the employer retirement contribution which would
88 | be required if the employee were a member of the pension plan's
89 | Regular Class, plus the portion of the contribution rate
90 | required by s. 112.363(8) which would otherwise be assigned to
91 | the Retiree Health Insurance Subsidy Trust Fund.

92 | b. Effective July 1, 2001, through June 30, 2011, each
93 | employer shall contribute on behalf of each member of the
94 | optional program an amount equal to 10.43 percent of the
95 | employee's gross monthly compensation. The employer shall deduct
96 | an amount for the administration of the program.

97 | c. Effective July 1, 2011, through June 30, 2012, each
98 | member shall contribute an amount equal to the employee
99 | contribution required under s. 121.71(3). The employer shall
100 | contribute on behalf of each program member an amount equal to
101 | the difference between 10.43 percent of the employee's gross
102 | monthly compensation and the employee's required contribution
103 | based on the employee's gross monthly compensation.

104 | d. Effective July 1, 2012, each member shall contribute an
105 | amount equal to the employee contribution required under s.
106 | 121.71(3). The employer shall contribute on behalf of each
107 | program member an amount equal to the difference between 8.15
108 | percent of the employee's gross monthly compensation and the
109 | employee's required contribution based on the employee's gross
110 | monthly compensation.

111 | e. The employer shall contribute an additional amount to
112 | the Florida Retirement System Trust Fund equal to the unfunded

113 actuarial accrued liability portion of the Regular Class
114 contribution rate.

115 2. The decision to participate in the optional retirement
116 program is irrevocable as long as the employee holds a position
117 eligible for participation, except as provided in subparagraph
118 3. Any service creditable under the Florida Retirement System is
119 retained after the member withdraws from the system; however,
120 additional service credit in the system may not be earned while
121 a member of the optional retirement program.

122 3. Effective July 1, 2003, through December 31, 2013, an
123 employee who has elected to participate in the optional
124 retirement program shall have one opportunity, at the employee's
125 discretion, to transfer from the optional retirement program to
126 the pension plan of the Florida Retirement System or to the
127 investment plan established under part II of this chapter,
128 subject to the terms of the applicable optional retirement
129 program contracts. Except as provided in subsection (3), an
130 employee participating in the optional retirement program on or
131 after January 1, 2014, is not eligible to transfer to the
132 Florida Retirement System.

133 a. If the employee chooses to move to the investment plan,
134 any contributions, interest, and earnings creditable to the
135 employee under the optional retirement program are retained by
136 the employee in the optional retirement program, and the
137 applicable provisions of s. 121.4501(4) govern the election.

138 b. If the employee chooses to move to the pension plan of
139 the Florida Retirement System, the employee shall receive
140 service credit equal to his or her years of service under the

141 optional retirement program.

142 (I) The cost for such credit is the amount representing
143 the present value of the employee's accumulated benefit
144 obligation for the affected period of service. The cost shall be
145 calculated as if the benefit commencement occurs on the first
146 date the employee becomes eligible for unreduced benefits, using
147 the discount rate and other relevant actuarial assumptions that
148 were used to value the Florida Retirement System Pension Plan
149 liabilities in the most recent actuarial valuation. The
150 calculation must include any service already maintained under
151 the pension plan in addition to the years under the optional
152 retirement program. The present value of any service already
153 maintained must be applied as a credit to total cost resulting
154 from the calculation. The division must ensure that the transfer
155 sum is prepared using a formula and methodology certified by an
156 enrolled actuary.

157 (II) The employee must transfer from his or her optional
158 retirement program account and from other employee moneys as
159 necessary, a sum representing the present value of the
160 employee's accumulated benefit obligation immediately following
161 the time of such movement, determined assuming that attained
162 service equals the sum of service in the pension plan and
163 service in the optional retirement program.

164 4. Participation in the optional retirement program is
165 limited to employees who satisfy the following eligibility
166 criteria:

167 a. The employee is otherwise eligible for membership or
168 renewed membership in the Regular Class of the Florida

169 Retirement System, as provided in s. 121.021(11) and (12) or s.
 170 121.122.

171 b. The employee is employed in a full-time position
 172 classified in the Accounting Manual for Florida's Public
 173 Community Colleges as:

174 (I) Instructional; or

175 (II) Executive Management, Instructional Management, or
 176 Institutional Management and the community college determines
 177 that recruiting to fill a vacancy in the position is to be
 178 conducted in the national or regional market, and the duties and
 179 responsibilities of the position include the formulation,
 180 interpretation, or implementation of policies, or the
 181 performance of functions that are unique or specialized within
 182 higher education and that frequently support the mission of the
 183 community college.

184 c. The employee is employed in a position not included in
 185 the Senior Management Service Class of the Florida Retirement
 186 System as described in s. 121.055.

187 5. Members of the program are subject to the same
 188 reemployment limitations, renewed membership provisions, and
 189 forfeiture provisions applicable to regular members of the
 190 Florida Retirement System under ss. 121.091(9), 121.122, and
 191 121.091(5), respectively. A member who receives a program
 192 distribution funded by employer and required employee
 193 contributions is deemed to be retired from a state-administered
 194 retirement system if the member is subsequently employed with an
 195 employer that participates in the Florida Retirement System.

196 6. Eligible community college employees are compulsory

197 members of the Florida Retirement System until, pursuant to s.
198 1012.875, a written election to withdraw from the system and
199 participate in the optional retirement program is filed with the
200 program administrator and received by the division.

201 a. A community college employee whose program eligibility
202 results from initial employment shall be enrolled in the
203 optional retirement program retroactive to the first day of
204 eligible employment. The employer and employee retirement
205 contributions paid through the month of the employee plan change
206 shall be transferred to the community college to the employee's
207 optional program account, and, effective the first day of the
208 next month, the employer shall pay the applicable contributions
209 based upon subparagraph 1.

210 b. A community college employee whose program eligibility
211 is due to the subsequent designation of the employee's position
212 as one of those specified in subparagraph 4., or due to the
213 employee's appointment, promotion, transfer, or reclassification
214 to a position specified in subparagraph 4., must be enrolled in
215 the program on the first day of the first full calendar month
216 that such change in status becomes effective. The employer and
217 employee retirement contributions paid from the effective date
218 through the month of the employee plan change must be
219 transferred to the community college to the employee's optional
220 program account, and, effective the first day of the next month,
221 the employer shall pay the applicable contributions based upon
222 subparagraph 1.

223 7. Effective July 1, 2003, through December 31, 2008, any
224 member of the optional retirement program who has service credit

225 | in the pension plan of the Florida Retirement System for the
226 | period between his or her first eligibility to transfer from the
227 | pension plan to the optional retirement program and the actual
228 | date of transfer may, during employment, transfer to the
229 | optional retirement program a sum representing the present value
230 | of the accumulated benefit obligation under the defined benefit
231 | retirement program for the period of service credit. Upon
232 | transfer, all service credit previously earned under the pension
233 | plan during this period is nullified for purposes of entitlement
234 | to a future benefit under the pension plan.

235 | (3) INVESTMENT PLAN MEMBERSHIP COMPULSORY.-

236 | (a) All eligible employees, except those eligible to
237 | withdraw from the system under s. 121.052(3)(d) or s.
238 | 121.055(1)(b)2., or those eligible for optional retirement
239 | programs under s. 121.051(1)(a), s. 121.051(2)(c), or s. 121.35,
240 | initially enrolled on or after January 1, 2014, are compulsory
241 | members of the investment plan, and membership in the pension
242 | plan is not permitted. Employees initially enrolled on or after
243 | January 1, 2014, are not eligible to use the election
244 | opportunity specified in s. 121.4501(4)(e).

245 | (b) Employees eligible to withdraw from the system under
246 | s. 121.052(3)(d) or s. 121.055(1)(b)2., may choose to withdraw
247 | from the system or to participate in the investment plan as
248 | provided in those sections. Employees eligible for optional
249 | retirement programs under s. 121.051(2)(c) or s. 121.35, may
250 | choose to participate in the optional retirement program or the
251 | investment plan as provided in those sections. Eligible
252 | employees required to participate in the optional retirement

253 program under s. 121.35, pursuant to s. 121.051(1)(a), must
254 participate in the investment plan when employed in a position
255 not eligible for the optional retirement program.

256 Section 2. Paragraph (c) of subsection (3) of section
257 121.052, Florida Statutes, is amended to read:

258 121.052 Membership class of elected officers.—

259 (3) PARTICIPATION AND WITHDRAWAL, GENERALLY.—Effective
260 July 1, 1990, participation in the Elected Officers' Class shall
261 be compulsory for elected officers listed in paragraphs (2)(a)-
262 (d) and (f) assuming office on or after said date, unless the
263 elected officer elects membership in another class or withdraws
264 from the Florida Retirement System as provided in paragraphs
265 (3)(a)-(d):

266 (c) Before January 1, 2014, any elected officer may,
267 within 6 months after assuming office, or within 6 months after
268 this act becomes a law for serving elected officers, elect
269 membership in the Senior Management Service Class as provided in
270 s. 121.055 in lieu of membership in the Elected Officers' Class.
271 Any such election made by a county elected officer shall have no
272 effect upon the statutory limit on the number of nonelective
273 full-time positions that may be designated by a local agency
274 employer for inclusion in the Senior Management Service Class
275 under s. 121.055(1)(b)1.

276 Section 3. Paragraph (f) of subsection (1) and paragraph
277 (c) of subsection (6) of section 121.055, Florida Statutes, are
278 amended to read:

279 121.055 Senior Management Service Class.—There is hereby
280 established a separate class of membership within the Florida

281 Retirement System to be known as the "Senior Management Service
282 Class," which shall become effective February 1, 1987.

283 (1)

284 (f) Effective July 1, 1997, through December 31, 2013:

285 1. Except as provided in subparagraphs ~~subparagraph~~ 3. and
286 4., an elected state officer eligible for membership in the
287 Elected Officers' Class under s. 121.052(2)(a), (b), or (c) who
288 elects membership in the Senior Management Service Class under
289 s. 121.052(3)(c) may, within 6 months after assuming office or
290 within 6 months after this act becomes a law for serving elected
291 state officers, elect to participate in the Senior Management
292 Service Optional Annuity Program, as provided in subsection (6),
293 in lieu of membership in the Senior Management Service Class.

294 2. Except as provided in subparagraphs ~~subparagraph~~ 3. and
295 4., an elected officer of a local agency employer eligible for
296 membership in the Elected Officers' Class under s. 121.052(2)(d)
297 who elects membership in the Senior Management Service Class
298 under s. 121.052(3)(c) may, within 6 months after assuming
299 office, or within 6 months after this act becomes a law for
300 serving elected officers of a local agency employer, elect to
301 withdraw from the Florida Retirement System, as provided in
302 subparagraph (b)2., in lieu of membership in the Senior
303 Management Service Class.

304 3. A retiree of a state-administered retirement system who
305 is initially reemployed in a regularly established position on
306 or after July 1, 2010, as an elected official eligible for the
307 Elected Officers' Class may not be enrolled in renewed
308 membership in the Senior Management Service Class or in the

309 Senior Management Service Optional Annuity Program as provided
310 in subsection (6), and may not withdraw from the Florida
311 Retirement System as a renewed member as provided in
312 subparagraph (b)2., as applicable, in lieu of membership in the
313 Senior Management Service Class.

314 4. On or after January 1, 2014, an elected official
315 eligible for membership in the Elected Officers' Class may not
316 be enrolled in the Senior Management Service Class or in the
317 Senior Management Service Optional Annuity Program as provided
318 in subsection (6).

319 (6)

320 (c) Participation.—

321 1. An eligible employee who is employed on or before
322 February 1, 1987, may elect to participate in the optional
323 annuity program in lieu of participating in the Senior
324 Management Service Class. Such election must be made in writing
325 and filed with the department and the personnel officer of the
326 employer on or before May 1, 1987. An eligible employee who is
327 employed on or before February 1, 1987, and who fails to make an
328 election to participate in the optional annuity program by May
329 1, 1987, shall be deemed to have elected membership in the
330 Senior Management Service Class.

331 2. Except as provided in subparagraph 6., an employee who
332 becomes eligible to participate in the optional annuity program
333 by reason of initial employment commencing after February 1,
334 1987, may, within 90 days after the date of commencing
335 employment, elect to participate in the optional annuity
336 program. Such election must be made in writing and filed with

337 the personnel officer of the employer. An eligible employee who
338 does not within 90 days after commencing employment elect to
339 participate in the optional annuity program shall be deemed to
340 have elected membership in the Senior Management Service Class.

341 3. A person who is appointed to a position in the Senior
342 Management Service Class and who is a member of an existing
343 retirement system or the Special Risk or Special Risk
344 Administrative Support Classes of the Florida Retirement System
345 may elect to remain in such system or class in lieu of
346 participating in the Senior Management Service Class or optional
347 annuity program. Such election must be made in writing and filed
348 with the department and the personnel officer of the employer
349 within 90 days after such appointment. An eligible employee who
350 fails to make an election to participate in the existing system,
351 the Special Risk Class of the Florida Retirement System, the
352 Special Risk Administrative Support Class of the Florida
353 Retirement System, or the optional annuity program shall be
354 deemed to have elected membership in the Senior Management
355 Service Class.

356 4. Except as provided in subparagraph 5., an employee's
357 election to participate in the optional annuity program is
358 irrevocable if the employee continues to be employed in an
359 eligible position and continues to meet the eligibility
360 requirements set forth in this paragraph.

361 5. Effective from July 1, 2002, through September 30,
362 2002, an active employee in a regularly established position who
363 has elected to participate in the Senior Management Service
364 Optional Annuity Program has one opportunity to choose to move

365 from the Senior Management Service Optional Annuity Program to
366 the Florida Retirement System Pension Plan.

367 a. The election must be made in writing and must be filed
368 with the department and the personnel officer of the employer
369 before October 1, 2002, or, in the case of an active employee
370 who is on a leave of absence on July 1, 2002, within 90 days
371 after the conclusion of the leave of absence. This election is
372 irrevocable.

373 b. The employee shall receive service credit under the
374 pension plan equal to his or her years of service under the
375 Senior Management Service Optional Annuity Program. The cost for
376 such credit is the amount representing the present value of that
377 employee's accumulated benefit obligation for the affected
378 period of service.

379 c. The employee must transfer the total accumulated
380 employer contributions and earnings on deposit in his or her
381 Senior Management Service Optional Annuity Program account. If
382 the transferred amount is not sufficient to pay the amount due,
383 the employee must pay a sum representing the remainder of the
384 amount due. The employee may not retain any employer
385 contributions or earnings from the Senior Management Service
386 Optional Annuity Program account.

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

391 7. Effective January 1, 2014, the Senior Management
392 Service Optional Annuity Program is closed to new members.

393 Members enrolled in the Senior Management Service Optional
 394 Annuity Program before January 1, 2014, may retain their
 395 membership in the annuity program.

396 Section 4. Paragraph (c) of subsection (3) of section
 397 121.35, Florida Statutes, is amended to read:

398 121.35 Optional retirement program for the State
 399 University System.—

400 (3) ELECTION OF OPTIONAL PROGRAM.—

401 (c) Any employee who becomes eligible to participate in
 402 the optional retirement program on or after January 1, 1993,
 403 shall be a compulsory participant of the program unless such
 404 employee elects membership in the Florida Retirement System.
 405 Such election shall be made in writing and filed with the
 406 personnel officer of the employer. Any eligible employee who
 407 fails to make such election within the prescribed time period
 408 shall be deemed to have elected to participate in the optional
 409 retirement program.

410 1. Any employee whose optional retirement program
 411 eligibility results from initial employment shall be enrolled in
 412 the program at the commencement of employment. If, within 90
 413 days after commencement of employment, the employee elects
 414 membership in the Florida Retirement System, such membership
 415 shall be effective retroactive to the date of commencement of
 416 employment as provided in s. 121.4501(4).

417 2. Any employee whose optional retirement program
 418 eligibility results from a change in status due to the
 419 subsequent designation of the employee's position as one of
 420 those specified in paragraph (2) (a) or due to the employee's

421 appointment, promotion, transfer, or reclassification to a
422 position specified in paragraph (2) (a) shall be enrolled in the
423 optional retirement program upon such change in status and shall
424 be notified by the employer of such action. If, within 90 days
425 after the date of such notification, the employee elects to
426 retain membership in the Florida Retirement System, such
427 continuation of membership shall be retroactive to the date of
428 the change in status.

429 3. Notwithstanding subparagraphs 1. and 2. ~~the provisions~~
430 ~~of this paragraph~~, effective July 1, 1997, any employee who is
431 eligible to participate in the Optional Retirement Program and
432 who fails to execute a contract with one of the approved
433 companies and to notify the department in writing as provided in
434 subsection (4) within 90 days after the date of eligibility
435 shall be deemed to have elected membership in the Florida
436 Retirement System, except as provided in s. 121.051(1) (a). This
437 provision shall also apply to any employee who terminates
438 employment in an eligible position before executing the required
439 investment annuity contract and notifying the department. Such
440 membership shall be retroactive to the date of eligibility, and
441 all appropriate contributions shall be transferred to the
442 Florida Retirement System Trust Fund and the Health Insurance
443 Subsidy Trust Fund. If a member is initially enrolled on or
444 after January 1, 2014, the member is deemed to have elected
445 membership in the Florida Retirement System Investment Plan and
446 such membership shall be retroactive to the date of eligibility.
447 All contributions required under s. 121.72, shall be transferred
448 to a default fund in the investment plan as provided in s.

449 121.4501(4)(f), and the Health Insurance Subsidy Trust Fund.

450 Section 5. Subsections (1) and (4), paragraph (c) of
451 subsection (5), subsection (8), paragraph (a) of subsection (9),
452 paragraphs (a), (b), (c), and (h) of subsection (10), and
453 paragraphs (a) and (c) of subsection (15) of section 121.4501,
454 Florida Statutes, are amended, and paragraph (h) is added to
455 subsection (9) of that section, to read:

456 121.4501 Florida Retirement System Investment Plan.—

457 (1) The Trustees of the State Board of Administration
458 shall establish a defined contribution program called the
459 "Florida Retirement System Investment Plan" or "investment plan"
460 for members of the Florida Retirement System under which
461 retirement benefits will be provided for eligible employees
462 initially enrolled before January 1, 2014, who elect to
463 participate in the program, and for all eligible employees
464 initially enrolled on or after January 1, 2014, who shall be
465 compulsory members unless otherwise eligible to withdraw from
466 the system under s. 121.052(3)(d) or s. 121.055(1)(b)2., or to
467 participate in an optional retirement program under s.
468 121.051(1)(a), s. 121.051(2)(c), or s. 121.35. The retirement
469 benefits shall be provided through member-directed investments,
470 in accordance with s. 401(a) of the Internal Revenue Code and
471 related regulations. The employer and employee shall make
472 contributions, as provided in this section and ss. 121.571 and
473 121.71, to the Florida Retirement System Investment Plan Trust
474 Fund toward the funding of benefits.

475 (4) PARTICIPATION; ENROLLMENT.—

476 (a)1. Effective June 1, 2002, through February 28, 2003, a

477 90-day election period is provided to each eligible employee
478 participating in the Florida Retirement System, preceded by a
479 90-day education period, permitting each eligible employee to
480 elect membership in the investment plan, and an employee who
481 fails to elect the investment plan during the election period
482 remains in the pension plan. An eligible employee employed in a
483 regularly established position during the election period is
484 granted the option to make one subsequent election, as provided
485 in paragraph (e). With respect to an eligible employee who does
486 not participate in the initial election period or who is
487 initially employed in a regularly established position after the
488 close of the initial election period but before January 1, 2014,
489 ~~on June 1, 2002, by a state employer:~~

490 a. ~~Any such employee may elect to participate in the~~
491 ~~investment plan in lieu of retaining his or her membership in~~
492 ~~the pension plan. The election must be made in writing or by~~
493 ~~electronic means and must be filed with the third-party~~
494 ~~administrator by August 31, 2002, or, in the case of an active~~
495 ~~employee who is on a leave of absence on April 1, 2002, by the~~
496 ~~last business day of the 5th month following the month the leave~~
497 ~~of absence concludes. This election is irrevocable, except as~~
498 ~~provided in paragraph (g). Upon making such election, the~~
499 ~~employee shall be enrolled as a member of the investment plan,~~
500 ~~the employee's membership in the Florida Retirement System is~~
501 ~~governed by the provisions of this part, and the employee's~~
502 ~~membership in the pension plan terminates. The employee's~~
503 ~~enrollment in the investment plan is effective the first day of~~
504 ~~the month for which a full month's employer contribution is made~~

505 ~~to the investment plan.~~

506 ~~b. Any such employee who fails to elect to participate in~~
507 ~~the investment plan within the prescribed time period is deemed~~
508 ~~to have elected to retain membership in the pension plan, and~~
509 ~~the employee's option to elect to participate in the investment~~
510 ~~plan is forfeited.~~

511 ~~2. With respect to employees who become eligible to~~
512 ~~participate in the investment plan by reason of employment in a~~
513 ~~regularly established position with a state employer commencing~~
514 ~~after April 1, 2002:~~

515 ~~a. Any such employee shall, by default, be enrolled in the~~
516 ~~pension plan at the commencement of employment, and may, by the~~
517 ~~last business day of the 5th month following the employee's~~
518 ~~month of hire, elect to participate in the investment plan. The~~
519 ~~employee's election must be made in writing or by electronic~~
520 ~~means and must be filed with the third-party administrator. The~~
521 ~~election to participate in the investment plan is irrevocable,~~
522 ~~except as provided in paragraph (e) ~~(g)~~.~~

523 ~~a.b.~~ If the employee files such election within the
524 prescribed time period, enrollment in the investment plan is
525 effective on the first day of employment. The retirement
526 contributions paid through the month of the employee plan change
527 shall be transferred to the investment program, and, effective
528 the first day of the next month, the employer and employee must
529 pay the applicable contributions based on the employee
530 membership class in the program.

531 ~~b.e.~~ An employee who fails to elect to participate in the
532 investment plan within the prescribed time period is deemed to

533 have elected to retain membership in the pension plan, and the
534 employee's option to elect to participate in the investment plan
535 is forfeited.

536 ~~2.3.~~ With respect to employees who become eligible to
537 participate in the investment plan pursuant to s.
538 121.051(2)(c)3. or s. 121.35(3)(i), the employee may elect to
539 participate in the investment plan in lieu of retaining his or
540 her membership in the State Community College System Optional
541 Retirement Program or the State University System Optional
542 Retirement Program. The election must be made in writing or by
543 electronic means and must be filed with the third-party
544 administrator. This election is irrevocable, except as provided
545 in paragraph (e) ~~(g)~~. Upon making such election, the employee
546 shall be enrolled as a member in the investment plan, the
547 employee's membership in the Florida Retirement System is
548 governed by the provisions of this part, and the employee's
549 participation in the State Community College System Optional
550 Retirement Program or the State University System Optional
551 Retirement Program terminates. The employee's enrollment in the
552 investment plan is effective on the first day of the month for
553 which a full month's employer and employee contribution is made
554 to the investment plan.

555 ~~4. For purposes of this paragraph, "state employer" means~~
556 ~~any agency, board, branch, commission, community college,~~
557 ~~department, institution, institution of higher education, or~~
558 ~~water management district of the state, which participates in~~
559 ~~the Florida Retirement System for the benefit of certain~~
560 ~~employees.~~

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

564 ~~a. Any such employee may elect to participate in the~~
565 ~~investment plan in lieu of retaining his or her membership in~~
566 ~~the pension plan. The election must be made in writing or by~~
567 ~~electronic means and must be filed with the third-party~~
568 ~~administrator by November 30, or, in the case of an active~~
569 ~~employee who is on a leave of absence on July 1, 2002, by the~~
570 ~~last business day of the 5th month following the month the leave~~
571 ~~of absence concludes. This election is irrevocable, except as~~
572 ~~provided in paragraph (g). Upon making such election, the~~
573 ~~employee shall be enrolled as a member of the investment plan,~~
574 ~~the employee's membership in the Florida Retirement System is~~
575 ~~governed by the provisions of this part, and the employee's~~
576 ~~membership in the pension plan terminates. The employee's~~
577 ~~enrollment in the investment plan is effective the first day of~~
578 ~~the month for which a full month's employer contribution is made~~
579 ~~to the investment program.~~

580 ~~b. Any such employee who fails to elect to participate in~~
581 ~~the investment plan within the prescribed time period is deemed~~
582 ~~to have elected to retain membership in the pension plan, and~~
583 ~~the employee's option to elect to participate in the investment~~
584 ~~plan is forfeited.~~

585 ~~2. With respect to employees who become eligible to~~
586 ~~participate in the investment plan by reason of employment in a~~
587 ~~regularly established position with a district school board~~
588 ~~employer commencing after July 1, 2002:~~

589 ~~a. Any such employee shall, by default, be enrolled in the~~
590 ~~pension plan at the commencement of employment, and may, by the~~
591 ~~last business day of the 5th month following the employee's~~
592 ~~month of hire, elect to participate in the investment plan. The~~
593 ~~employee's election must be made in writing or by electronic~~
594 ~~means and must be filed with the third party administrator. The~~
595 ~~election to participate in the investment plan is irrevocable,~~
596 ~~except as provided in paragraph (g).~~

597 ~~b. If the employee files such election within the~~
598 ~~prescribed time period, enrollment in the investment plan is~~
599 ~~effective on the first day of employment. The employer~~
600 ~~retirement contributions paid through the month of the employee~~
601 ~~plan change shall be transferred to the investment plan, and,~~
602 ~~effective the first day of the next month, the employer shall~~
603 ~~pay the applicable contributions based on the employee~~
604 ~~membership class in the investment plan.~~

605 ~~e. Any such employee who fails to elect to participate in~~
606 ~~the investment plan within the prescribed time period is deemed~~
607 ~~to have elected to retain membership in the pension plan, and~~
608 ~~the employee's option to elect to participate in the investment~~
609 ~~plan is forfeited.~~

610 ~~3. For purposes of this paragraph, "district school board~~
611 ~~employer" means any district school board that participates in~~
612 ~~the Florida Retirement System for the benefit of certain~~
613 ~~employees, or a charter school or charter technical career~~
614 ~~center that participates in the Florida Retirement System as~~
615 ~~provided in s. 121.051(2) (d).~~

616 ~~(c)1. With respect to an eligible employee who is employed~~

617 | ~~in a regularly established position on December 1, 2002, by a~~
618 | ~~local employer:~~

619 | ~~a. Any such employee may elect to participate in the~~
620 | ~~investment plan in lieu of retaining his or her membership in~~
621 | ~~the pension plan. The election must be made in writing or by~~
622 | ~~electronic means and must be filed with the third party~~
623 | ~~administrator by February 28, 2003, or, in the case of an active~~
624 | ~~employee who is on a leave of absence on October 1, 2002, by the~~
625 | ~~last business day of the 5th month following the month the leave~~
626 | ~~of absence concludes. This election is irrevocable, except as~~
627 | ~~provided in paragraph (g). Upon making such election, the~~
628 | ~~employee shall be enrolled as a participant of the investment~~
629 | ~~plan, the employee's membership in the Florida Retirement System~~
630 | ~~is governed by the provisions of this part, and the employee's~~
631 | ~~membership in the pension plan terminates. The employee's~~
632 | ~~enrollment in the investment plan is effective the first day of~~
633 | ~~the month for which a full month's employer contribution is made~~
634 | ~~to the investment plan.~~

635 | ~~b. Any such employee who fails to elect to participate in~~
636 | ~~the investment plan within the prescribed time period is deemed~~
637 | ~~to have elected to retain membership in the pension plan, and~~
638 | ~~the employee's option to elect to participate in the investment~~
639 | ~~plan is forfeited.~~

640 | ~~2. With respect to employees who become eligible to~~
641 | ~~participate in the investment plan by reason of employment in a~~
642 | ~~regularly established position with a local employer commencing~~
643 | ~~after October 1, 2002:~~

644 | ~~a. Any such employee shall, by default, be enrolled in the~~

645 ~~pension plan at the commencement of employment, and may, by the~~
646 ~~last business day of the 5th month following the employee's~~
647 ~~month of hire, elect to participate in the investment plan. The~~
648 ~~employee's election must be made in writing or by electronic~~
649 ~~means and must be filed with the third-party administrator. The~~
650 ~~election to participate in the investment plan is irrevocable,~~
651 ~~except as provided in paragraph (g).~~

652 ~~b. If the employee files such election within the~~
653 ~~prescribed time period, enrollment in the investment plan is~~
654 ~~effective on the first day of employment. The employer~~
655 ~~retirement contributions paid through the month of the employee~~
656 ~~plan change shall be transferred to the investment plan, and,~~
657 ~~effective the first day of the next month, the employer shall~~
658 ~~pay the applicable contributions based on the employee~~
659 ~~membership class in the investment plan.~~

660 ~~e. Any such employee who fails to elect to participate in~~
661 ~~the investment plan within the prescribed time period is deemed~~
662 ~~to have elected to retain membership in the pension plan, and~~
663 ~~the employee's option to elect to participate in the investment~~
664 ~~plan is forfeited.~~

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

667 (b) ~~(d)~~ Contributions available for self-direction by a
668 member who has not selected one or more specific investment
669 products shall be allocated as prescribed by the state board.
670 The third-party administrator shall notify the member at least
671 quarterly that the member should take an affirmative action to
672 make an asset allocation among the investment products.

673 ~~(c)-(e)~~ On or after July 1, 2011, a member of the pension
674 plan who obtains a refund of employee contributions retains his
675 or her prior plan choice upon return to employment in a
676 regularly established position with a participating employer.

677 ~~(d)-(f)~~ A member of the investment plan who takes a
678 distribution of any contributions from his or her investment
679 plan account is considered a retiree. A retiree who is initially
680 reemployed in a regularly established position on or after July
681 1, 2010, is not eligible to be enrolled in renewed membership.

682 ~~(e)-(g)~~ After the period during which an eligible employee
683 initially enrolled before January 1, 2014, had the choice to
684 elect the pension plan or the investment plan, or the month
685 following the receipt of the eligible employee's plan election,
686 if sooner, the employee shall have one opportunity, at the
687 employee's discretion, to choose to move from the pension plan
688 to the investment plan or from the investment plan to the
689 pension plan. Eligible employees may elect to move between plans
690 only if they are earning service credit in an employer-employee
691 relationship consistent with s. 121.021(17)(b), excluding leaves
692 of absence without pay. Effective July 1, 2005, such elections
693 are effective on the first day of the month following the
694 receipt of the election by the third-party administrator and are
695 not subject to the requirements regarding an employer-employee
696 relationship or receipt of contributions for the eligible
697 employee in the effective month, except when the election is
698 received by the third-party administrator. This paragraph is
699 contingent upon approval by the Internal Revenue Service.

700 1. If the employee chooses to move to the investment plan,

701 the provisions of subsection (3) govern the transfer.

702 2. If the employee chooses to move to the pension plan,
703 the employee must transfer from his or her investment plan
704 account, and from other employee moneys as necessary, a sum
705 representing the present value of that employee's accumulated
706 benefit obligation immediately following the time of such
707 movement, determined assuming that attained service equals the
708 sum of service in the pension plan and service in the investment
709 plan. Benefit commencement occurs on the first date the employee
710 is eligible for unreduced benefits, using the discount rate and
711 other relevant actuarial assumptions that were used to value the
712 pension plan liabilities in the most recent actuarial valuation.
713 For any employee who, at the time of the second election,
714 already maintains an accrued benefit amount in the pension plan,
715 the then-present value of the accrued benefit is deemed part of
716 the required transfer amount. The division must ensure that the
717 transfer sum is prepared using a formula and methodology
718 certified by an enrolled actuary. A refund of any employee
719 contributions or additional member payments made which exceed
720 the employee contributions that would have accrued had the
721 member remained in the pension plan and not transferred to the
722 investment plan is not permitted.

723 3. Notwithstanding subparagraph 2., an employee who
724 chooses to move to the pension plan and who became eligible to
725 participate in the investment plan by reason of employment in a
726 regularly established position with a state employer after June
727 1, 2002; a district school board employer after September 1,
728 2002; or a local employer after December 1, 2002, must transfer

729 from his or her investment plan account, and from other employee
730 moneys as necessary, a sum representing the employee's actuarial
731 accrued liability. A refund of any employee contributions or
732 additional member ~~participant~~ payments made which exceed the
733 employee contributions that would have accrued had the member
734 remained in the pension plan and not transferred to the
735 investment plan is not permitted.

736 4. An employee's ability to transfer from the pension plan
737 to the investment plan pursuant to paragraph (a) ~~paragraphs (a)-~~
738 ~~(d)~~, and the ability of a current employee to have an option to
739 later transfer back into the pension plan under subparagraph 2.,
740 shall be deemed a significant system amendment. Pursuant to s.
741 121.031(4), any resulting unfunded liability arising from actual
742 original transfers from the pension plan to the investment plan
743 must be amortized within 30 plan years as a separate unfunded
744 actuarial base independent of the reserve stabilization
745 mechanism defined in s. 121.031(3)(f). For the first 25 years, a
746 direct amortization payment may not be calculated for this base.
747 During this 25-year period, the separate base shall be used to
748 offset the impact of employees exercising their second program
749 election under this paragraph. The actuarial funded status of
750 the pension plan will not be affected by such second program
751 elections in any significant manner, after due recognition of
752 the separate unfunded actuarial base. Following the initial 25-
753 year period, any remaining balance of the original separate base
754 shall be amortized over the remaining 5 years of the required
755 30-year amortization period.

756 5. If the employee chooses to transfer from the investment

757 plan to the pension plan and retains an excess account balance
758 in the investment plan after satisfying the buy-in requirements
759 under this paragraph, the excess may not be distributed until
760 the member retires from the pension plan. The excess account
761 balance may be rolled over to the pension plan and used to
762 purchase service credit or upgrade creditable service in the
763 pension plan.

764 (f)1. All eligible employees, except those eligible to
765 withdraw from the system under s. 121.052(3)(d) or s.
766 121.055(1)(b)2., or those eligible for optional retirement
767 programs under s. 121.051(1)(a), s. 121.051(2)(c), or s. 121.35,
768 initially enrolled on or after January 1, 2014, are compulsory
769 members of the investment plan. Employees eligible to withdraw
770 from the system under s. 121.052(3)(d) or s. 121.055(1)(b)2.,
771 may choose to withdraw from the system or to participate in the
772 investment plan as provided in those sections. Employees
773 eligible for optional retirement programs under s. 121.051(2)(c)
774 or s. 121.35, except as provided in s. 121.051(1)(a), may choose
775 to participate in the optional retirement program or the
776 investment plan as provided in those sections. Membership in the
777 pension plan is not permitted except as provided in s.
778 121.591(2).

779 2. Employees initially enrolled on or after January 1,
780 2014, are not permitted to use the election opportunity
781 specified in paragraph (e).

782 3. The amount of retirement contributions paid by the
783 employee and employer, as required under s. 121.72, shall be
784 placed in a default fund as designated by the state board, until

785 an account is activated in the investment plan, at which time
786 the member may move the contributions from the default fund to
787 other funds provided in the investment plan.

788 (5) CONTRIBUTIONS.—

789 (c) The state board, acting as plan fiduciary, must ensure
790 that all plan assets are held in a trust, pursuant to s. 401 of
791 the Internal Revenue Code. The fiduciary must ensure that such
792 contributions are allocated as follows:

793 1. The employer and employee contribution portion
794 earmarked for member accounts shall be used to purchase
795 interests in the appropriate investment vehicles as specified by
796 the member, or in accordance with paragraph (4) (b) ~~(d)~~.

797 2. The employer contribution portion earmarked for
798 administrative and educational expenses shall be transferred to
799 the Florida Retirement System Investment Plan Trust Fund.

800 3. The employer contribution portion earmarked for
801 disability benefits shall be transferred to the Florida
802 Retirement System Trust Fund.

803 (8) INVESTMENT PLAN ADMINISTRATION.—The investment plan
804 shall be administered by the state board and affected employers.
805 The state board may require oaths, by affidavit or otherwise,
806 and acknowledgments from persons in connection with the
807 administration of its statutory duties and responsibilities for
808 the investment plan. An oath, by affidavit or otherwise, may not
809 be required of a member at the time of enrollment. For members
810 initially enrolled before January 1, 2014, acknowledgment of an
811 employee's election to participate in the program shall be no
812 greater than necessary to confirm the employee's election. The

813 state board shall adopt rules to carry out its statutory duties
814 with respect to administering the investment plan, including
815 establishing the roles and responsibilities of affected state,
816 local government, and education-related employers, the state
817 board, the department, and third-party contractors. The
818 department shall adopt rules necessary to administer the
819 investment plan in coordination with the pension plan and the
820 disability benefits available under the investment plan.

821 (a)1. The state board shall select and contract with a
822 third-party administrator to provide administrative services if
823 those services cannot be competitively and contractually
824 provided by the division. With the approval of the state board,
825 the third-party administrator may subcontract to provide
826 components of the administrative services. As a cost of
827 administration, the state board may compensate any such
828 contractor for its services, in accordance with the terms of the
829 contract, as is deemed necessary or proper by the board. The
830 third-party administrator may not be an approved provider or be
831 affiliated with an approved provider.

832 2. These administrative services may include, but are not
833 limited to, enrollment of eligible employees, collection of
834 employer and employee contributions, disbursement of
835 contributions to approved providers in accordance with the
836 allocation directions of members; services relating to
837 consolidated billing; individual and collective recordkeeping
838 and accounting; asset purchase, control, and safekeeping; and
839 direct disbursement of funds to and from the third-party
840 administrator, the division, the state board, employers,

841 members, approved providers, and beneficiaries. This section
842 does not prevent or prohibit a bundled provider from providing
843 any administrative or customer service, including accounting and
844 administration of individual member benefits and contributions;
845 individual member recordkeeping; asset purchase, control, and
846 safekeeping; direct execution of the member's instructions as to
847 asset and contribution allocation; calculation of daily net
848 asset values; direct access to member account information; or
849 periodic reporting to members, at least quarterly, on account
850 balances and transactions, if these services are authorized by
851 the state board as part of the contract.

852 (b)1. The state board shall select and contract with one
853 or more organizations to provide educational services. With
854 approval of the state board, the organizations may subcontract
855 to provide components of the educational services. As a cost of
856 administration, the state board may compensate any such
857 contractor for its services in accordance with the terms of the
858 contract, as is deemed necessary or proper by the board. The
859 education organization may not be an approved provider or be
860 affiliated with an approved provider.

861 2. Educational services shall be designed by the state
862 board and department to assist employers, eligible employees,
863 members, and beneficiaries in order to maintain compliance with
864 United States Department of Labor regulations under s. 404(c) of
865 the Employee Retirement Income Security Act of 1974 and to
866 assist employees in their choice of pension plan or investment
867 plan retirement alternatives. Educational services include, but
868 are not limited to, disseminating educational materials;

869 providing retirement planning education; explaining the pension
870 plan and the investment plan; and offering financial planning
871 guidance on matters such as investment diversification,
872 investment risks, investment costs, and asset allocation. An
873 approved provider may also provide educational information,
874 including retirement planning and investment allocation
875 information concerning its products and services.

876 (c)1. In evaluating and selecting a third-party
877 administrator, the state board shall establish criteria for
878 evaluating the relative capabilities and qualifications of each
879 proposed administrator. In developing such criteria, the state
880 board shall consider:

881 a. The administrator's demonstrated experience in
882 providing administrative services to public or private sector
883 retirement systems.

884 b. The administrator's demonstrated experience in
885 providing daily valued recordkeeping to defined contribution
886 programs.

887 c. The administrator's ability and willingness to
888 coordinate its activities with employers, the state board, and
889 the division, and to supply to such employers, the board, and
890 the division the information and data they require, including,
891 but not limited to, monthly management reports, quarterly member
892 reports, and ad hoc reports requested by the department or state
893 board.

894 d. The cost-effectiveness and levels of the administrative
895 services provided.

896 e. The administrator's ability to interact with the

897 members, the employers, the state board, the division, and the
898 providers; the means by which members may access account
899 information, direct investment of contributions, make changes to
900 their accounts, transfer moneys between available investment
901 vehicles, and transfer moneys between investment products; and
902 any fees that apply to such activities.

903 f. Any other factor deemed necessary by the state board.

904 2. In evaluating and selecting an educational provider,
905 the state board shall establish criteria under which it shall
906 consider the relative capabilities and qualifications of each
907 proposed educational provider. In developing such criteria, the
908 state board shall consider:

909 a. Demonstrated experience in providing educational
910 services to public or private sector retirement systems.

911 b. Ability and willingness to coordinate its activities
912 with the employers, the state board, and the division, and to
913 supply to such employers, the board, and the division the
914 information and data they require, including, but not limited
915 to, reports on educational contacts.

916 c. The cost-effectiveness and levels of the educational
917 services provided.

918 d. Ability to provide educational services via different
919 media, including, but not limited to, the Internet, personal
920 contact, seminars, brochures, and newsletters.

921 e. Any other factor deemed necessary by the state board.

922 3. The establishment of the criteria shall be solely
923 within the discretion of the state board.

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

925 any contracts to be offered under the investment plan. In
926 developing the contracts, the board shall consider:

927 1. The nature and extent of the rights and benefits to be
928 afforded in relation to the contributions required under the
929 plan.

930 2. The suitability of the rights and benefits provided and
931 the interests of employers in the recruitment and retention of
932 eligible employees.

933 (e)1. The state board may contract for professional
934 services, including legal, consulting, accounting, and actuarial
935 services, deemed necessary to implement and administer the
936 investment plan. The state board may enter into a contract with
937 one or more vendors to provide low-cost investment advice to
938 members, supplemental to education provided by the third-party
939 administrator. All fees under any such contract shall be paid by
940 those members who choose to use the services of the vendor.

941 2. The department may contract for professional services,
942 including legal, consulting, accounting, and actuarial services,
943 deemed necessary to implement and administer the investment plan
944 in coordination with the pension plan. The department, in
945 coordination with the state board, may enter into a contract
946 with the third-party administrator in order to coordinate
947 services common to the various programs within the Florida
948 Retirement System.

949 (f) The third-party administrator may not receive direct
950 or indirect compensation from an approved provider, except as
951 specifically provided for in the contract with the state board.

952 (g) The state board shall receive and resolve member

953 | complaints against the program, the third-party administrator,
954 | or any program vendor or provider; shall resolve any conflict
955 | between the third-party administrator and an approved provider
956 | if such conflict threatens the implementation or administration
957 | of the program or the quality of services to employees; and may
958 | resolve any other conflicts. The third-party administrator shall
959 | retain all member records for at least 5 years for use in
960 | resolving any member conflicts. The state board, the third-party
961 | administrator, or a provider is not required to produce
962 | documentation or an audio recording to justify action taken with
963 | regard to a member if the action occurred 5 or more years before
964 | the complaint is submitted to the state board. It is presumed
965 | that all action taken 5 or more years before the complaint is
966 | submitted was taken at the request of the member and with the
967 | member's full knowledge and consent. To overcome this
968 | presumption, the member must present documentary evidence or an
969 | audio recording demonstrating otherwise.

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

971 | (a) The state board shall develop policy and procedures
972 | for selecting, evaluating, and monitoring the performance of
973 | approved providers and investment products under the investment
974 | plan. In accordance with such policy and procedures, the state
975 | board shall designate and contract for a number of investment
976 | products as determined by the board. The board shall also select
977 | one or more bundled providers, each of which may offer multiple
978 | investment options and related services, if such approach is
979 | determined by the board to provide value to the members
980 | otherwise not available through individual investment products.

981 Each approved bundled provider may offer investment options that
982 provide members with the opportunity to invest in each of the
983 following asset classes, to be composed of individual options
984 that represent a single asset class or a combination thereof:
985 money markets, United States fixed income, United States
986 equities, and foreign stock. The state board shall review and
987 manage all educational materials, contract terms, fee schedules,
988 and other aspects of the approved provider relationships to
989 ensure that no provider is unduly favored or penalized by virtue
990 of its status within the investment plan. Additionally, the
991 state board, consistent with its fiduciary responsibilities,
992 shall develop one or more investment products to be offered in
993 the investment plan.

994 (h) A self-directed brokerage account shall be offered as
995 a service to investment plan members.

996 1. Notwithstanding any other provision of this section,
997 the state board shall select a provider to offer investment plan
998 members additional investment alternatives by providing a self-
999 directed brokerage account.

1000 2. The state board shall contract with a provider to offer
1001 a self-directed brokerage account. In selecting the provider,
1002 the state board shall consider the following:

1003 a. Financial strength and stability as evidenced by the
1004 highest ratings assigned by nationally recognized rating
1005 services when comparing proposed providers that are so rated.

1006 b. Reasonableness of fees compared to other providers
1007 taking into consideration the quantity and quality of services
1008 being offered.

- 1009 c. Compliance with the Internal Revenue Code and all
1010 applicable federal and state securities laws.
- 1011 d. Available methods for members to interact with the
1012 provider and the means by which members may access account
1013 information, direct investment of funds, transfer funds, and
1014 receive funds prospectuses and related investment materials as
1015 required by state and federal regulations.
- 1016 e. The ability to provide prompt, efficient, and accurate
1017 responses to member directions, as well as providing
1018 confirmations and quarterly account statements in a timely
1019 fashion.
- 1020 f. The process by which assets are invested, as well as
1021 any waiting periods when monies are transferred.
- 1022 g. Organizational factors, including, but not limited to,
1023 financial solvency, organizational depth, and experience in
1024 providing self-directed brokerage account services to public
1025 defined contribution plans.
- 1026 3. The provider of the self-directed brokerage account
1027 shall:
- 1028 a. Make the self-directed brokerage account available
1029 under the most beneficial terms available to any customer.
- 1030 b. Agree not to sell or distribute member lists generated
1031 through services rendered to the investment plan.
- 1032 c. Not be a bundled provider.
- 1033 d. Provide for an education component approved by the
1034 state board that is available in multimedia formats and that
1035 provides impartial and balanced information about investment
1036 options and fees associated with participation in the self-

1037 | directed brokerage account.

1038 | 4. The provider, as well as any of its related entities,
 1039 | may not offer any proprietary products as investment
 1040 | alternatives in the self-directed brokerage account.

1041 | 5. The state board shall monitor the selected provider to
 1042 | ensure continued compliance with established selection criteria,
 1043 | board policy and procedures, state and federal regulations, and
 1044 | any contractual provisions.

1045 | 6. The provider shall ensure that a member opening a self-
 1046 | directed brokerage account is provided a quarterly statement
 1047 | that details member investments in the self-directed brokerage
 1048 | account. The statement shall be in lieu of, and satisfy the
 1049 | requirements of, subsection (11) with respect to the member
 1050 | investments in the self-directed brokerage account. The provider
 1051 | shall include in the statement the following details:

1052 | a. Account investment options.

1053 | b. The market value of the account at the close of the
 1054 | current quarter and the previous quarter.

1055 | c. Account gains and losses.

1056 | d. Transfers into and out of the account.

1057 | e. Any fees, charges, penalties, and deductions that apply
 1058 | to the account.

1059 | 7. The self-directed brokerage account may include the
 1060 | following securities as investment alternatives:

1061 | a. Stocks listed on a Securities and Exchange Commission
 1062 | regulated national exchange.

1063 | b. Exchange traded funds.

1064 | c. Mutual funds.

- 1065 8. The self-directed brokerage account may not include the
1066 following as investment alternatives:
- 1067 a. Illiquid investments.
 - 1068 b. Over-the-Counter Bulletin Board securities.
 - 1069 c. Pink Sheet securities.
 - 1070 d. Leveraged exchange traded funds.
 - 1071 e. Direct ownership of foreign securities.
 - 1072 f. Derivatives, including, but not limited to, futures and
1073 options contracts on securities, market indexes, and
1074 commodities.
 - 1075 g. Buying or trading on margin.
 - 1076 h. Investment plan products.
 - 1077 i. Any investment that would jeopardize the investment
1078 plan's tax qualified status.
- 1079 9. A member may participate in the self-directed
1080 brokerage account if the member:
- 1081 a. Maintains a minimum balance of \$5,000 in the products
1082 offered under the investment plan.
 - 1083 b. Makes a minimum initial transfer of funds into the
1084 self-directed brokerage account of \$1,000.
 - 1085 c. Makes subsequent transfers of funds into the self-
1086 directed brokerage account in amounts of \$1,000 or greater.
 - 1087 d. Pays all trading fees, commissions, administrative
1088 fees, and any other expenses associated with participating in
1089 the self-directed brokerage account from the funds in the self-
1090 directed brokerage account.
 - 1091 e. Does not violate any trading restrictions established
1092 by the provider, the investment plan, or state or federal law.

1093 10. Employer and employee contributions shall be initially
1094 deposited into investment plan products and may be transferred
1095 to the self-directed brokerage account.

1096 11. Distributions are not permissible directly from assets
1097 in the self-directed brokerage account. Assets must first be
1098 transferred to investment plan products. A distribution may be
1099 requested after the transfer is completed and all investment
1100 plan distribution requirements are met.

1101 12. The state board must notify members that:

1102 a. The state board is not responsible for managing the
1103 self-directed brokerage account beyond administrative
1104 requirements as established between the state board and the
1105 provider of the self-directed brokerage account.

1106 b. Investment alternatives available through the self-
1107 directed brokerage account have not been subjected to any
1108 selection process, are not monitored by the state board, require
1109 investment expertise to prudently buy, manage, or dispose of,
1110 and have a risk of substantial loss.

1111 c. The member is responsible for all administrative,
1112 investment, and trading fees associated with participating in
1113 the self-directed brokerage account.

1114 (10) EDUCATION COMPONENT.—

1115 (a) The state board, in coordination with the department,
1116 shall provide for an education component for eligible employees
1117 ~~system members~~ in a manner consistent with the provisions of
1118 this subsection ~~section~~. ~~The education component must be~~
1119 ~~available to eligible employees at least 90 days prior to the~~
1120 ~~beginning date of the election period for the employees of the~~

1121 ~~respective types of employers.~~

1122 (b) The education component must provide system members
1123 with impartial and balanced information about plan choices for
1124 members initially enrolled before January 1, 2014. The education
1125 component must involve multimedia formats. Program comparisons
1126 must, to the greatest extent possible, be based upon the
1127 retirement income that different retirement programs may provide
1128 to the member. The state board shall monitor the performance of
1129 the contract to ensure that the program is conducted in
1130 accordance with the contract, applicable law, and the rules of
1131 the state board.

1132 (c) The state board, in coordination with the department,
1133 shall provide for an initial and ongoing transfer education
1134 component to provide system members initially enrolled before
1135 January 1, 2014, with information necessary to make informed
1136 plan choice decisions. The transfer education component must
1137 include, but is not limited to, information on:

1138 1. The amount of money available to a member to transfer
1139 to the defined contribution program.

1140 2. The features of and differences between the pension
1141 plan and the defined contribution program, both generally and
1142 specifically, as those differences may affect the member.

1143 3. The expected benefit available if the member were to
1144 retire under each of the retirement programs, based on
1145 appropriate alternative sets of assumptions.

1146 4. The rate of return from investments in the defined
1147 contribution program and the period of time over which such rate
1148 of return must be achieved to equal or exceed the expected

1149 monthly benefit payable to the member under the pension plan.

1150 5. The historical rates of return for the investment
1151 alternatives available in the defined contribution programs.

1152 6. The benefits and historical rates of return on
1153 investments available in a typical deferred compensation plan or
1154 a typical plan under s. 403(b) of the Internal Revenue Code for
1155 which the employee may be eligible.

1156 7. The program choices available to employees of the State
1157 University System and the comparative benefits of each available
1158 program, if applicable.

1159 8. Payout options available in each of the retirement
1160 programs.

1161 ~~(h) Pursuant to subsection (8), all Florida Retirement~~
1162 ~~System employers have an obligation to regularly communicate the~~
1163 ~~existence of the two Florida Retirement System plans and the~~
1164 ~~plan choice in the natural course of administering their~~
1165 ~~personnel functions, using the educational materials supplied by~~
1166 ~~the state board and the Department of Management Services.~~

1167 (15) STATEMENT OF FIDUCIARY STANDARDS AND
1168 RESPONSIBILITIES.—

1169 (a) Investment of investment ~~defined contribution~~ plan
1170 assets shall be made for the sole interest and exclusive purpose
1171 of providing benefits to members and beneficiaries and defraying
1172 reasonable expenses of administering the plan. The program's
1173 assets shall be invested on behalf of the program members with
1174 the care, skill, and diligence that a prudent person acting in a
1175 like manner would undertake. The performance of the investment
1176 duties set forth in this paragraph shall comply with the

1177 fiduciary standards set forth in the Employee Retirement Income
1178 Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). In case
1179 of conflict with other provisions of law authorizing
1180 investments, the investment and fiduciary standards set forth in
1181 this subsection shall prevail.

1182 (c) Subparagraph (8)(b)2. and paragraph (b) incorporate
1183 the federal law concept of participant control, established by
1184 regulations of the United States Department of Labor under s.
1185 404(c) of the Employee Retirement Income Security Act of 1974
1186 (ERISA). The purpose of this paragraph is to assist employers
1187 and the state board in maintaining compliance with s. 404(c),
1188 while avoiding unnecessary costs and eroding member benefits
1189 under the investment plan. Pursuant to 29 C.F.R. s. 2550.404a-
1190 5(d)(4) ~~2550.404e-1(b)(2)(i)(B)(1)(viii)~~, the state board or its
1191 designated agents shall deliver to members of the investment
1192 plan a copy of the prospectus most recently provided to the
1193 plan, ~~and, pursuant to 29 C.F.R. s. 2550.404e-~~
1194 ~~1(b)(2)(i)(B)(2)(ii), shall provide such members an opportunity~~
1195 ~~to obtain this information~~, except that:

1196 1. The requirement to deliver a prospectus shall be
1197 satisfied by delivery of a fund profile or summary profile that
1198 contains the information that would be included in a summary
1199 prospectus as described by Rule 498 under the Securities Act of
1200 1933, 17 C.F.R. s. 230.498. If the transaction fees, expense
1201 information or other information provided by a mutual fund in
1202 the prospectus does not reflect terms negotiated by the state
1203 board or its designated agents, the requirement is satisfied by
1204 delivery of a separate document described by Rule 498

1205 substituting accurate information; and

1206 2. Delivery shall be effected if delivery is through
1207 electronic means and the following standards are satisfied:

1208 a. Electronically-delivered documents are prepared and
1209 provided consistent with style, format, and content requirements
1210 applicable to printed documents;

1211 b. Each member is provided timely and adequate notice of
1212 the documents that are to be delivered, and their significance,
1213 and of the member's right to obtain a paper copy of such
1214 documents free of charge;

1215 c. Members have adequate access to the electronic
1216 documents, at locations such as their worksites or public
1217 facilities, and have the ability to convert the documents to
1218 paper free of charge by the state board, and the board or its
1219 designated agents take appropriate and reasonable measures to
1220 ensure that the system for furnishing electronic documents
1221 results in actual receipt. Members have provided consent to
1222 receive information in electronic format, which consent may be
1223 revoked; and

1224 d. The state board, or its designated agent, actually
1225 provides paper copies of the documents free of charge, upon
1226 request.

1227 3. The state board is not required to deliver a prospectus
1228 or other information for the underlying investments available
1229 through the self-directed brokerage account authorized by
1230 paragraph (9) (h).

1231 Section 6. Subsection (3) of section 121.591, Florida
1232 Statutes, is amended to read:

1233 121.591 Payment of benefits.—Benefits may not be paid
1234 under the Florida Retirement System Investment Plan unless the
1235 member has terminated employment as provided in s.
1236 121.021(39)(a) or is deceased and a proper application has been
1237 filed as prescribed by the state board or the department.
1238 Benefits, including employee contributions, are not payable
1239 under the investment plan for employee hardships, unforeseeable
1240 emergencies, loans, medical expenses, educational expenses,
1241 purchase of a principal residence, payments necessary to prevent
1242 eviction or foreclosure on an employee's principal residence, or
1243 any other reason except a requested distribution for retirement,
1244 a mandatory de minimis distribution authorized by the
1245 administrator, or a required minimum distribution provided
1246 pursuant to the Internal Revenue Code. The state board or
1247 department, as appropriate, may cancel an application for
1248 retirement benefits if the member or beneficiary fails to timely
1249 provide the information and documents required by this chapter
1250 and the rules of the state board and department. In accordance
1251 with their respective responsibilities, the state board and the
1252 department shall adopt rules establishing procedures for
1253 application for retirement benefits and for the cancellation of
1254 such application if the required information or documents are
1255 not received. The state board and the department, as
1256 appropriate, are authorized to cash out a de minimis account of
1257 a member who has been terminated from Florida Retirement System
1258 covered employment for a minimum of 6 calendar months. A de
1259 minimis account is an account containing employer and employee
1260 contributions and accumulated earnings of not more than \$5,000

1261 made under the provisions of this chapter. Such cash-out must be
1262 a complete lump-sum liquidation of the account balance, subject
1263 to the provisions of the Internal Revenue Code, or a lump-sum
1264 direct rollover distribution paid directly to the custodian of
1265 an eligible retirement plan, as defined by the Internal Revenue
1266 Code, on behalf of the member. Any nonvested accumulations and
1267 associated service credit, including amounts transferred to the
1268 suspense account of the Florida Retirement System Investment
1269 Plan Trust Fund authorized under s. 121.4501(6), shall be
1270 forfeited upon payment of any vested benefit to a member or
1271 beneficiary, except for de minimis distributions or minimum
1272 required distributions as provided under this section. If any
1273 financial instrument issued for the payment of retirement
1274 benefits under this section is not presented for payment within
1275 180 days after the last day of the month in which it was
1276 originally issued, the third-party administrator or other duly
1277 authorized agent of the state board shall cancel the instrument
1278 and credit the amount of the instrument to the suspense account
1279 of the Florida Retirement System Investment Plan Trust Fund
1280 authorized under s. 121.4501(6). Any amounts transferred to the
1281 suspense account are payable upon a proper application, not to
1282 include earnings thereon, as provided in this section, within 10
1283 years after the last day of the month in which the instrument
1284 was originally issued, after which time such amounts and any
1285 earnings attributable to employer contributions shall be
1286 forfeited. Any forfeited amounts are assets of the trust fund
1287 and are not subject to chapter 717.

1288 (3) DEATH BENEFITS.—Under the Florida Retirement System

1289 Investment Plan:

1290 (a)1. Survivor benefits are payable in accordance with the
 1291 following terms and conditions:

1292 ~~a.1.~~ To the extent vested, benefits are payable only to a
 1293 member's beneficiary or beneficiaries as designated by the
 1294 member as provided in s. 121.4501(20).

1295 ~~b.2.~~ Benefits shall be paid by the third-party
 1296 administrator or designated approved providers in accordance
 1297 with the law, the contracts, and any applicable state board rule
 1298 or policy.

1299 ~~c.3.~~ To receive benefits, the member must be deceased.

1300 ~~2.(b)~~ In the event of a member's death, all vested
 1301 accumulations as described in s. 121.4501(6), less withholding
 1302 taxes remitted to the Internal Revenue Service, shall be
 1303 distributed, as provided in subparagraph 3. ~~paragraph (e)~~ or as
 1304 described in s. 121.4501(20), as if the member retired on the
 1305 date of death. No other death benefits are available for
 1306 survivors of members, except for benefits, or coverage for
 1307 benefits, as are otherwise provided by law or separately
 1308 provided by the employer, at the employer's discretion.

1309 ~~3.(e)~~ Upon receipt by the third-party administrator of a
 1310 properly executed application for distribution of benefits, the
 1311 total accumulated benefit is payable by the third-party
 1312 administrator to the member's surviving beneficiary or
 1313 beneficiaries, as:

1314 ~~a.1.~~ A lump-sum distribution payable to the beneficiary or
 1315 beneficiaries, or to the deceased member's estate;

1316 ~~b.2.~~ An eligible rollover distribution, if permitted, on

1317 | behalf of the surviving spouse of a deceased member, whereby all
1318 | accrued benefits, plus interest and investment earnings, are
1319 | paid from the deceased member's account directly to the
1320 | custodian of an eligible retirement plan, as described in s.
1321 | 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
1322 | surviving spouse; or

1323 | ~~c.3.~~ A partial lump-sum payment whereby a portion of the
1324 | accrued benefit is paid to the deceased member's surviving
1325 | spouse or other designated beneficiaries, less withholding taxes
1326 | remitted to the Internal Revenue Service, and the remaining
1327 | amount is transferred directly to the custodian of an eligible
1328 | retirement plan, if permitted, as described in s. 402(c)(8)(B)
1329 | of the Internal Revenue Code, on behalf of the surviving spouse.
1330 | The proportions must be specified by the member or the surviving
1331 | beneficiary.

1332 | (b)1. Each employer participating in the Florida
1333 | Retirement System shall purchase a life insurance policy from a
1334 | state term contract for each member of the Special Risk Class of
1335 | the investment plan who is initially enrolled in the Florida
1336 | Retirement System on or after January 1, 2014.

1337 | 2. The Department of Management Services shall procure a
1338 | life insurance product on a state term contract with the
1339 | following attributes:

1340 | a. The benefit must be limited to Special Risk Class
1341 | members who are killed in the line of duty.

1342 | b. The benefit must be equal to 10 times the employee's
1343 | annual salary.

1344 | c. The benefit must provide for monthly benefit payments,

1345 including interest, to be paid to the designated beneficiary or
1346 beneficiaries over a 20-year period.

1347 d. The product must be guaranteed issue.

1348 e. The product must provide level premium rates for the
1349 term of the policy.

1350 f. Any administrative fees shall be the responsibility of
1351 the employer.

1352 3. Survivor benefits provided by the life insurance policy
1353 are payable in addition to the survivor benefit provided under
1354 paragraph (a).

1355

1356 This subsection ~~paragraph~~ does not abrogate other applicable
1357 provisions of state or federal law providing for payment of
1358 death benefits.

1359 Section 7. Section 238.072, Florida Statutes, is amended
1360 to read:

1361 238.072 Special service provisions for extension
1362 personnel.—All state and county cooperative extension personnel
1363 holding appointments by the United States Department of
1364 Agriculture for extension work in agriculture and home economics
1365 in this state who are joint representatives of the University of
1366 Florida and the United States Department of Agriculture, as
1367 provided in s. 121.051(8) ~~121.051(7)~~, who are members of the
1368 Teachers' Retirement System, chapter 238, and who are prohibited
1369 from transferring to and participating in the Florida Retirement
1370 System, chapter 121, may retire with full benefits upon
1371 completion of 30 years of creditable service and shall be
1372 considered to have attained normal retirement age under this

1373 chapter, any law to the contrary notwithstanding. In order to
 1374 comply with the provisions of s. 14, Art. X of the State
 1375 Constitution, any liability accruing to the Florida Retirement
 1376 System Trust Fund as a result of the provisions of this section
 1377 shall be paid on an annual basis from the General Revenue Fund.

1378 Section 8. Subsection (11) of section 413.051, Florida
 1379 Statutes, is amended to read:

1380 413.051 Eligible blind persons; operation of vending
 1381 stands.—

1382 (11) Effective July 1, 1996, blind licensees who remain
 1383 members of the Florida Retirement System pursuant to s.
 1384 121.051(7)(b)1. ~~121.051(6)(b)1.~~ shall pay any unappropriated
 1385 retirement costs from their net profits or from program income.
 1386 Within 30 days after the effective date of this act, each blind
 1387 licensee who is eligible to maintain membership in the Florida
 1388 Retirement System under s. 121.051(7)(b)1. ~~121.051(6)(b)1.~~, but
 1389 who elects to withdraw from the system as provided in s.
 1390 121.051(7)(b)3. ~~121.051(6)(b)3.~~, must, on or before July 31,
 1391 1996, notify the Division of Blind Services and the Department
 1392 of Management Services in writing of his or her election to
 1393 withdraw. Failure to timely notify the divisions shall be deemed
 1394 a decision to remain a compulsory member of the Florida
 1395 Retirement System. However, if, at any time after July 1, 1996,
 1396 sufficient funds are not paid by a blind licensee to cover the
 1397 required contribution to the Florida Retirement System, that
 1398 blind licensee shall become ineligible to participate in the
 1399 Florida Retirement System on the last day of the first month for
 1400 which no contribution is made or the amount contributed is

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1401 insufficient to cover the required contribution. For any blind
1402 licensee who becomes ineligible to participate in the Florida
1403 Retirement System as described in this subsection, no creditable
1404 service shall be earned under the Florida Retirement System for
1405 any period following the month that retirement contributions
1406 ceased to be reported. However, any such person may participate
1407 in the Florida Retirement System in the future if employed by a
1408 participating employer in a covered position.

1409 Section 9. (1) Effective January 1, 2014, in order to
1410 fund the benefit changes provided in this act, the required
1411 employer contribution rates for the unfunded actuarial liability
1412 of the Florida Retirement System established in section
1413 121.71(5), Florida Statutes, shall be adjusted as follows:

1414 (a) Elected Officers' Class.—Legislators, the Governor,
1415 the Lieutenant Governor, Cabinet Officers, State Attorneys, and
1416 Public Defenders shall be increased by 0.02 percentage points.

1417 (b) Elected Officers' Class.—County Elected Officers shall
1418 be increased by 0.02 percentage points.

1419 (c) Senior Management Service Class.—The Senior Management
1420 Service Class shall be increased by 0.01 percentage points.

1421 (2) The adjustments provided in subsection (1) shall be in
1422 addition to all other changes to such contribution rates which
1423 may be enacted into law to take effect on July 1, 2013, and July
1424 1, 2014. The Division of Law Revision and Information is
1425 requested to adjust accordingly the contribution rates provided
1426 in section 121.71, Florida Statutes.

1427 Section 10. Except for the amendments made by this act to
1428 ss. 121.051, 121.052, and 121.055, Florida Statutes, which apply

1429 only to members of the State Community College System Optional
1430 Retirement Program, Elected Officers' Class, and the Senior
1431 Management Service Class, respectively, this act does not modify
1432 or limit any retirement benefit or plan choice currently
1433 available to members who first enrolled in the Florida
1434 Retirement System before January 1, 2014.

1435 Section 11. The Legislature finds that a proper and
1436 legitimate state purpose is served when employees and retirees
1437 of the state and its political subdivisions, and the dependents,
1438 survivors, and beneficiaries of such employees and retirees, are
1439 extended the basic protections afforded by governmental
1440 retirement systems. These persons must be provided benefits that
1441 are fair and adequate and that are managed, administered, and
1442 funded in an actuarially sound manner, as required by s. 14,
1443 Article X of the State Constitution and part VII of chapter 112,
1444 Florida Statutes. Therefore, the Legislature determines and
1445 declares that this act fulfills an important state interest.

1446 Section 12. (1) Effective upon this act becoming a law,
1447 the State Board of Administration and the Department of
1448 Management Services shall request, as soon as practicable, a
1449 determination letter from the United States Internal Revenue
1450 Service. If the Internal Revenue Service refuses to act upon a
1451 request for a determination letter, then a legal opinion from a
1452 qualified tax attorney or firm may be substituted for such
1453 letter.

1454 (2) If the board or the department receives notification
1455 from the United States Internal Revenue Service that this act or
1456 any portion of this act will cause the Florida Retirement

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1457 System, or a portion thereof, to be disqualified for tax
1458 purposes under the Internal Revenue Code, then the portion that
1459 will cause the disqualification does not apply. Upon such
1460 notice, the state board and the department shall notify the
1461 presiding officers of the Legislature.

1462 Section 13. Except as otherwise expressly provided in this
1463 act and except for this section, which shall take effect upon
1464 this act becoming a law, this act shall take effect July 1,
1465 2013.