

By the Committees on Appropriations; and Governmental Oversight and Accountability

576-04273-15

20157082c1

1 A bill to be entitled
2 An act relating to death benefits under the Florida
3 Retirement System; amending s. 121.091, F.S.;
4 authorizing payment of death benefits to the surviving
5 spouse or children of a Special Risk Class member
6 killed in the line of duty under specified
7 circumstances; specifying eligibility; amending s.
8 121.571, F.S.; conforming provisions to changes made
9 by the act; amending s. 121.591, F.S.; authorizing
10 payment of death benefits to the surviving spouse or
11 surviving children of a Special Risk Class member in
12 the investment plan; establishing qualifications and
13 eligibility requirements in order to receive such
14 benefits; prescribing the method of calculating the
15 benefit; specifying circumstances under which benefit
16 payments are terminated; creating s. 121.5912, F.S.;
17 providing legislative intent; requiring the State
18 Board of Administration or the Division of Retirement
19 to take certain action upon receipt of notification of
20 disqualification from the Internal Revenue Service;
21 authorizing the state board and the Department of
22 Management Services to adopt rules; creating s.
23 121.735, F.S.; providing for allocations for death
24 benefits authorized by the act; amending ss. 121.71,
25 121.74, and 121.75, F.S.; conforming cross-references
26 to changes made by the act; requiring the State Board
27 of Administration to transfer moneys to fund survivor
28 benefit payments under specified circumstances;
29 adjusting employer contribution rates in order to fund

576-04273-15

20157082c1

30 changes made by the act; providing a directive to the
31 Division of Law Revision and Information; declaring
32 that the act fulfills an important state interest;
33 providing an appropriation; providing an effective
34 date.

35
36 Be It Enacted by the Legislature of the State of Florida:

37
38 Section 1. Paragraph (d) of subsection (7) of section
39 121.091, Florida Statutes, is amended, and paragraph (i) is
40 added to that subsection, to read:

41 121.091 Benefits payable under the system.—Benefits may not
42 be paid under this section unless the member has terminated
43 employment as provided in s. 121.021(39) (a) or begun
44 participation in the Deferred Retirement Option Program as
45 provided in subsection (13), and a proper application has been
46 filed in the manner prescribed by the department. The department
47 may cancel an application for retirement benefits when the
48 member or beneficiary fails to timely provide the information
49 and documents required by this chapter and the department's
50 rules. The department shall adopt rules establishing procedures
51 for application for retirement benefits and for the cancellation
52 of such application when the required information or documents
53 are not received.

54 (7) DEATH BENEFITS.—

55 (d) Notwithstanding any other provision in this chapter to
56 the contrary, with the exception of the Deferred Retirement
57 Option Program, as provided in subsection (13):

58 1. The surviving spouse of any member killed in the line of

576-04273-15

20157082c1

59 duty may receive a monthly pension equal to one-half of the
60 monthly salary being received by the member at the time of death
61 for the rest of the surviving spouse's lifetime or, if the
62 member was vested, such surviving spouse may elect to receive a
63 benefit as provided in paragraph (b). Benefits provided by this
64 paragraph shall supersede any other distribution that may have
65 been provided by the member's designation of beneficiary.

66 2. If the surviving spouse of a member killed in the line
67 of duty dies, the monthly payments which would have been payable
68 to such surviving spouse had such surviving spouse lived shall
69 be paid for the use and benefit of such member's child or
70 children under 18 years of age and unmarried until the 18th
71 birthday of the member's youngest child. Beginning July 1, 2015,
72 such monthly payments may be extended for a child of a member in
73 the Special Risk Class when killed on or after July 1, 2013,
74 until the 25th birthday of such child if the child is unmarried
75 and enrolled as a full-time student.

76 3. If a member killed in the line of duty leaves no
77 surviving spouse but is survived by a child or children under 18
78 years of age, the benefits provided by subparagraph 1., normally
79 payable to a surviving spouse, shall be paid for the use and
80 benefit of such member's child or children under 18 years of age
81 and unmarried until the 18th birthday of the member's youngest
82 child. Beginning July 1, 2015, such monthly payments may be
83 extended for a child of a member in the Special Risk Class when
84 killed on or after July 1, 2013, until the 25th birthday of such
85 child if the child is unmarried and enrolled as a full-time
86 student.

87 4. The surviving spouse of a member whose benefit

576-04273-15

20157082c1

88 terminated because of remarriage shall have the benefit
89 reinstated beginning July 1, 1993, at an amount that would have
90 been payable had the benefit not been terminated.

91 (i) Notwithstanding any other provision in this chapter to
92 the contrary, with the exception of the Deferred Retirement
93 Option Program, as provided in subsection (13), for a member in
94 the Special Risk Class when killed in the line of duty on or
95 after July 1, 2013, the following benefits are payable in
96 addition to the benefits provided in paragraph (d) beginning on
97 or after July 1, 2015:

98 1. The surviving spouse may receive a monthly pension equal
99 to one-half of the monthly salary being received by the member
100 at the time of death for the rest of the surviving spouse's
101 lifetime or, if the member was vested, such surviving spouse may
102 elect to receive a benefit as provided in paragraph (b).
103 Benefits provided by this paragraph shall supersede any other
104 distribution that may have been provided by the member's
105 designation of beneficiary.

106 2. If the surviving spouse dies, the monthly payments which
107 would have been payable to such surviving spouse had such
108 surviving spouse lived shall be paid for the use and benefit of
109 such member's child or children under 18 years of age and
110 unmarried until the 18th birthday of the member's youngest
111 child. Such monthly payments may be extended beyond this period
112 until the 25th birthday of the member's child if the child is
113 unmarried and enrolled as a full-time student.

114 3. If the member leaves no surviving spouse but is survived
115 by a child or children under 18 years of age, the benefits
116 provided by subparagraph 1., normally payable to a surviving

576-04273-15

20157082c1

117 spouse, shall be paid for the use and benefit of such member's
118 child or children under 18 years of age and unmarried until the
119 18th birthday of the member's youngest child. Such monthly
120 payments may be extended beyond this period until the 25th
121 birthday of the member's child if the child is unmarried and
122 enrolled as a full-time student.

123 Section 2. Subsection (2) of section 121.571, Florida
124 Statutes, is amended to read:

125 121.571 Contributions.—Contributions to the Florida
126 Retirement System Investment Plan shall be made as follows:

127 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund the
128 retirement, ~~and~~ disability, and line-of-duty death benefits
129 provided under this part must be based on the uniform
130 contribution rates established by s. 121.71 and on the
131 membership class or subclass of the member. Such contributions
132 must be allocated as provided in ss. 121.72, ~~and~~ 121.73, and
133 121.735.

134 Section 3. Subsection (3) of section 121.591, Florida
135 Statutes, is amended, present subsection (4) of that section is
136 redesignated as subsection (5), and a new subsection (4) is
137 added to that section, to read:

138 121.591 Payment of benefits.—Benefits may not be paid under
139 the Florida Retirement System Investment Plan unless the member
140 has terminated employment as provided in s. 121.021(39)(a) or is
141 deceased and a proper application has been filed as prescribed
142 by the state board or the department. Benefits, including
143 employee contributions, are not payable under the investment
144 plan for employee hardships, unforeseeable emergencies, loans,
145 medical expenses, educational expenses, purchase of a principal

576-04273-15

20157082c1

146 residence, payments necessary to prevent eviction or foreclosure
147 on an employee's principal residence, or any other reason except
148 a requested distribution for retirement, a mandatory de minimis
149 distribution authorized by the administrator, or a required
150 minimum distribution provided pursuant to the Internal Revenue
151 Code. The state board or department, as appropriate, may cancel
152 an application for retirement benefits if the member or
153 beneficiary fails to timely provide the information and
154 documents required by this chapter and the rules of the state
155 board and department. In accordance with their respective
156 responsibilities, the state board and the department shall adopt
157 rules establishing procedures for application for retirement
158 benefits and for the cancellation of such application if the
159 required information or documents are not received. The state
160 board and the department, as appropriate, are authorized to cash
161 out a de minimis account of a member who has been terminated
162 from Florida Retirement System covered employment for a minimum
163 of 6 calendar months. A de minimis account is an account
164 containing employer and employee contributions and accumulated
165 earnings of not more than \$5,000 made under the provisions of
166 this chapter. Such cash-out must be a complete lump-sum
167 liquidation of the account balance, subject to the provisions of
168 the Internal Revenue Code, or a lump-sum direct rollover
169 distribution paid directly to the custodian of an eligible
170 retirement plan, as defined by the Internal Revenue Code, on
171 behalf of the member. Any nonvested accumulations and associated
172 service credit, including amounts transferred to the suspense
173 account of the Florida Retirement System Investment Plan Trust
174 Fund authorized under s. 121.4501(6), shall be forfeited upon

576-04273-15

20157082c1

175 payment of any vested benefit to a member or beneficiary, except
176 for de minimis distributions or minimum required distributions
177 as provided under this section. If any financial instrument
178 issued for the payment of retirement benefits under this section
179 is not presented for payment within 180 days after the last day
180 of the month in which it was originally issued, the third-party
181 administrator or other duly authorized agent of the state board
182 shall cancel the instrument and credit the amount of the
183 instrument to the suspense account of the Florida Retirement
184 System Investment Plan Trust Fund authorized under s.
185 121.4501(6). Any amounts transferred to the suspense account are
186 payable upon a proper application, not to include earnings
187 thereon, as provided in this section, within 10 years after the
188 last day of the month in which the instrument was originally
189 issued, after which time such amounts and any earnings
190 attributable to employer contributions shall be forfeited. Any
191 forfeited amounts are assets of the trust fund and are not
192 subject to chapter 717.

193 (3) DEATH BENEFITS.—Under the Florida Retirement System
194 Investment Plan:

195 (a) Survivor benefits are payable in accordance with the
196 following terms and conditions, except as provided in subsection
197 (4):

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

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

576-04273-15

20157082c1

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

205 (b) Except as provided in subsection (4), in the event of a
206 member's death, all vested accumulations as described in s.
207 121.4501(6), less withholding taxes remitted to the Internal
208 Revenue Service, shall be distributed, as provided in paragraph
209 (c) or as described in s. 121.4501(20), as if the member retired
210 on the date of death. No other death benefits are available for
211 survivors of members, except for benefits, or coverage for
212 benefits, as are otherwise provided by law or separately
213 provided by the employer, at the employer's discretion.

214 (c) Except as provided in subsection (4), upon receipt by
215 the third-party administrator of a properly executed application
216 for distribution of benefits, the total accumulated benefit is
217 payable by the third-party administrator to the member's
218 surviving beneficiary or beneficiaries, as:

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

221 2. An eligible rollover distribution, if permitted, on
222 behalf of the surviving spouse of a deceased member, whereby all
223 accrued benefits, plus interest and investment earnings, are
224 paid from the deceased member's account directly to the
225 custodian of an eligible retirement plan, as described in s.
226 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
227 surviving spouse; or

228 3. A partial lump-sum payment whereby a portion of the
229 accrued benefit is paid to the deceased member's surviving
230 spouse or other designated beneficiaries, less withholding taxes
231 remitted to the Internal Revenue Service, and the remaining
232 amount is transferred directly to the custodian of an eligible

576-04273-15

20157082c1

233 retirement plan, if permitted, as described in s. 402(c)(8)(B)
234 of the Internal Revenue Code, on behalf of the surviving spouse.
235 The proportions must be specified by the member or the surviving
236 beneficiary.

237
238 This paragraph does not abrogate other applicable provisions of
239 state or federal law providing for payment of death benefits.

240 (4) DEATH BENEFITS FOR SPECIAL RISK CLASS MEMBERS.—Benefits
241 are provided under this subsection to the spouse and child or
242 children of members in the Special Risk Class when killed in the
243 line of duty and are payable in lieu of the benefits that would
244 otherwise be payable under the provisions of subsection (1) or
245 subsection (3). Benefits provided by this subsection shall
246 supersede any other distribution that may have been provided by
247 the member's designation of beneficiary. Such benefits must be
248 funded from employer contributions made under s. 121.571,
249 transferred employee contributions and funds accumulated
250 pursuant to paragraph (a), and interest and earnings thereon.

251 (a) Transfer of funds.—To qualify to receive monthly
252 benefits under this subsection:

253 1. All moneys accumulated in the member's account,
254 including vested and nonvested accumulations as described in s.
255 121.4501(6), must be transferred from such individual accounts
256 to the division for deposit in the survivor benefit account of
257 the Florida Retirement System Trust Fund. Moneys in the survivor
258 benefit account must be accounted for separately. Earnings must
259 be credited on an annual basis for amounts held in the survivor
260 benefit account of the Florida Retirement System Trust Fund
261 based on actual earnings of the trust fund.

576-04273-15

20157082c1

262 2. If the member has retained retirement credit earned
263 under the pension plan as provided in s. 121.4501(3), a sum
264 representing the actuarial present value of such credit within
265 the Florida Retirement System Trust Fund shall be transferred by
266 the division from the pension plan to the survivor benefit
267 retirement program as implemented under this subsection and
268 shall be deposited in the survivor benefit account of the trust
269 fund.

270 (b) Survivor retirement; entitlement.—An investment plan
271 member who is in the Special Risk Class at the time the member
272 is killed in the line of duty on or after July 1, 2013,
273 regardless of length of creditable service, may have survivor
274 benefits paid as provided in s. 121.091(7)(d) and (i) to:

275 1. The surviving spouse for the spouse's lifetime; or
276 2. If there is no surviving spouse or the surviving spouse
277 dies, the member's child or children under 18 years of age and
278 unmarried until the 18th birthday of the member's youngest
279 child. Such payments may be extended until the 25th birthday of
280 the member's child if the child is unmarried and enrolled as a
281 full-time student as provided in s. 121.091(7)(d) and (i).

282 (c) Survivor benefit retirement effective date.—The
283 effective retirement date for the surviving spouse or eligible
284 child of a Special Risk Class member who is killed in the line
285 of duty shall be:

286 1. The first of the month following the member's death if
287 the member dies on or after July 1, 2015.

288 2. July 1, 2015, for a member of the Special Risk Class
289 when killed in the line of duty on or after July 1, 2013, but
290 before July 1, 2015, if the application is received before July

576-04273-15

20157082c1

291 1, 2015; or the first of the month following the receipt of the
292 application.

293
294 If the investment plan account balance has already been paid out
295 to the surviving spouse or the eligible unmarried dependent
296 child or children, the benefit payable shall be actuarially
297 reduced by the amount of the payout.

298 (d) *Line-of-duty death benefit.*—The surviving spouse, or if
299 no surviving spouse or the surviving spouse dies, the member's
300 child or children under 18 years of age and unmarried until the
301 18th birthday of the member's youngest child, or until the 25th
302 birthday of the member's child if the child is unmarried and
303 enrolled as a full-time student, is eligible to receive a
304 retirement benefit under s. 121.091(7)(d) and (i) if the
305 member's account balance is surrendered and an application is
306 received and approved. Such surviving spouse or such child or
307 children shall receive a monthly survivor benefit that begins
308 accruing on the first day of the month of survivor benefit
309 retirement, as approved by the division, and is payable on the
310 last day of that month and each month thereafter during the
311 surviving spouse's lifetime or on behalf of the unmarried
312 children until the 18th birthday of the youngest child, or until
313 the 25th birthday of any of the member's children enrolled as
314 full-time students. All survivor benefits must be paid out of
315 the survivor benefit account of the Florida Retirement System
316 Trust Fund established under this subsection.

317
318 If the investment plan account balance has already been paid out
319 to the surviving spouse or the eligible unmarried dependent

576-04273-15

20157082c1

320 child or children, the benefit payable shall be actuarially
321 reduced by the amount of the payout.

322 (e) Computation of survivor benefit retirement benefit.—The
323 amount of each monthly payment must be calculated as provided
324 under s. 121.091(7)(d) and (i).

325 (f) Death of the surviving spouse or children.—

326 1. Upon the death of a surviving spouse, the monthly
327 benefits shall be paid through the last day of the month of
328 death and shall terminate or be paid on behalf of the unmarried
329 child or children until the 18th birthday of the youngest child,
330 or the 25th birthday of any of the member's unmarried children
331 enrolled as full-time students.

332 2. If the surviving spouse dies and the benefit is being
333 paid on behalf of the unmarried children under 18 years of age
334 until the youngest, unmarried child reaches his or her 18th
335 birthday, or the 25th birthday of any of the member's unmarried
336 children enrolled as full-time students, benefits shall be paid
337 through the last day of the month until the later of the month
338 the youngest, unmarried child reaches his or her 18th birthday,
339 the month of the 25th birthday of any of the member's unmarried
340 children enrolled as full-time students, or the month of the
341 death of the youngest child.

342 Section 4. Section 121.5912, Florida Statutes, is created
343 to read:

344 121.5912 Survivor benefit retirement program; qualified
345 status; rulemaking authority.—It is the intent of the
346 Legislature that the survivor benefit retirement program for
347 Special Risk Class members of the Florida Retirement System
348 investment plan meet all applicable requirements for a qualified

576-04273-15

20157082c1

349 plan. If the state board or the division receives notification
350 from the Internal Revenue Service that this program or any
351 portion of this program will cause the retirement system, or any
352 portion thereof, to be disqualified for tax purposes under the
353 Internal Revenue Code, the portion that will cause the
354 disqualification does not apply. Upon such notice, the state
355 board or the division shall notify the presiding officers of the
356 Legislature. The state board and the department may adopt any
357 rules necessary to maintain the qualified status of the survivor
358 benefit retirement program.

359 Section 5. Section 121.735, Florida Statutes, is created to
360 read:

361 121.735 Allocations for member line-of-duty death benefits;
362 percentage amounts.-

363 (1) The allocations established in subsection (3) shall be
364 used to provide line-of-duty death benefit coverage for Special
365 Risk Class members in the investment plan and shall be
366 transferred monthly by the Division of Retirement from the
367 Florida Retirement System Contributions Clearing Trust Fund to
368 the survivor benefit account of the Florida Retirement System
369 Trust Fund.

370 (2) The allocations are stated as a percentage of each
371 investment plan member's gross compensation for the calendar
372 month. A change in a contribution percentage is effective the
373 first day of the month for which retirement contributions may be
374 made on or after the beginning date of the change. Contribution
375 percentages may be modified by general law.

376 (3) Effective July 1, 2015, allocations from the Florida
377 Retirement System Contributions Clearing Trust Fund to provide

576-04273-15

20157082c1

378 line-of-duty death benefits for Special Risk Class members in
 379 the investment plan, and to offset the costs of administering
 380 said coverage, are as follows:

381
 382

<u>Membership Class</u>	<u>Percentage of Gross</u> <u>Compensation</u>
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383

384

<u>Special Risk Class</u>	<u>0.82%</u>
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387 Section 6. Subsection (1) of section 121.71, Florida
 388 Statutes, is amended to read:

389 121.71 Uniform rates; process; calculations; levy.—

390 (1) In conducting the system actuarial study required under
 391 s. 121.031, the actuary shall follow all requirements specified
 392 to determine, by Florida Retirement System employee membership
 393 class, the dollar contribution amounts necessary for the next
 394 fiscal year for the pension plan. In addition, the actuary shall
 395 determine, by Florida Retirement System membership class, based
 396 on an estimate for the next fiscal year of the gross
 397 compensation of employees participating in the investment plan,
 398 the dollar contribution amounts necessary to make the
 399 allocations required under ss. 121.72, ~~and~~ 121.73, and 121.735.
 400 For each employee membership class and subclass, the actuarial
 401 study must establish a uniform rate necessary to fund the
 402 benefit obligations under both Florida Retirement System

576-04273-15

20157082c1

403 retirement plans by dividing the sum of total dollars required
404 by the estimated gross compensation of members in both plans.

405 Section 7. Section 121.74, Florida Statutes, is amended to
406 read:

407 121.74 Administrative and educational expenses.—In addition
408 to contributions required to fund member accounts under s. ss.
409 ~~121.71 and 121.73~~, effective July 1, 2010, through June 30,
410 2014, employers participating in the Florida Retirement System
411 shall contribute an employer assessment amount equal to 0.03
412 percent of the payroll reported for each class or subclass of
413 Florida Retirement System membership. Effective July 1, 2014,
414 the employer assessment is 0.04 percent of the payroll reported
415 for each class or subclass of membership. The amount assessed
416 shall be transferred by the division ~~of Retirement~~ from the
417 Florida Retirement System Contributions Clearing Trust Fund to
418 the State Board of Administration's Administrative Trust Fund to
419 offset the costs of administering the investment plan and the
420 costs of providing educational services to members of the
421 Florida Retirement System. Approval of the trustees is required
422 before the expenditure of these funds. Payments for third-party
423 administrative or educational expenses shall be made only
424 pursuant to the terms of the approved contracts for such
425 services.

426 Section 8. Section 121.75, Florida Statutes, is amended to
427 read:

428 121.75 Allocation for pension plan.—After making the
429 transfers required pursuant to ss. 121.71, 121.72, 121.73,
430 121.735, and 121.74, the monthly balance of funds in the Florida
431 Retirement System Contributions Clearing Trust Fund shall be

576-04273-15

20157082c1

432 transferred to the Florida Retirement System Trust Fund to pay
433 the costs of providing pension plan benefits and plan
434 administrative costs under the pension plan.

435 Section 9. For the 2015-2016 fiscal year only, upon
436 notification by the Department of Management Services that
437 sufficient funds are not available to make survivor benefit
438 payments authorized by this act, the State Board of
439 Administration shall transfer, to the extent necessary, moneys
440 in the Administrative Trust Fund to the survivor benefits
441 account in the Florida Retirement System Trust Fund to ensure
442 the timely payment of survivor benefits.

443 Section 10. (1) In order to fund the benefit changes
444 provided in this act, the required employer contribution rates
445 for members of the Florida Retirement System established in s.
446 121.71(4), Florida Statutes, must be adjusted as follows:

447 (a) The Special Risk Class must be increased by 0.45
448 percentage point; and

449 (b) The Deferred Retirement Option Program must be
450 increased by 0.06 percentage point.

451 (2) In order to fund the benefit changes provided in this
452 act, the required employer contribution rate for the unfunded
453 actuarial liability of the Florida Retirement System established
454 in s. 121.71(5), Florida Statutes, for the Special Risk Class is
455 increased by 0.13 percentage point.

456 (3) The adjustments provided in subsections (1) and (2)
457 shall be in addition to all other changes to such contribution
458 rates which may be enacted into law to take effect on July 1,
459 2015. The Division of Law Revision and Information is directed
460 to adjust accordingly the contribution rates provided in s.

576-04273-15

20157082c1

461 121.71, Florida Statutes.

462 Section 11. The Legislature finds that a proper and
463 legitimate state purpose is served when employees and retirees
464 of the state and of its political subdivisions, and the
465 dependents, survivors, and beneficiaries of such employees and
466 retirees, are extended the basic protections afforded by
467 governmental retirement systems that provide fair and adequate
468 benefits that are managed, administered, and funded in an
469 actuarially sound manner, as required by s. 14, Article X of the
470 State Constitution and part VII of chapter 112, Florida
471 Statutes. Therefore, the Legislature determines and declares
472 that this act fulfills an important state interest.

473 Section 12. For the 2015-2016 fiscal year, the recurring
474 sums of \$5,445,537 from the General Revenue Fund and \$1,062,991
475 from trust funds are appropriated to Administered Funds in order
476 to fund the increased employer contribution rates to be paid
477 under this act by state agencies, state universities, state
478 colleges, and school districts.

479 Section 13. This act shall take effect July 1, 2015.