

1                   A bill to be entitled  
2       An act relating to retirement; amending ss. 110.123,  
3       112.0801, and 112.65, F.S.; conforming provisions to  
4       changes made by the act; amending s. 112.363, F.S.;  
5       revising provisions relating to retiree health insurance  
6       subsidies; revising provisions relating to payments of  
7       subsidies; providing that no additional service credit for  
8       the health insurance subsidy can be earned after July 1,  
9       2011; amending s. 121.021, F.S.; revising definitions;  
10      amending s. 121.051, F.S.; requiring that a local  
11      governmental entity or the governing body of a charter  
12      school or charter technical career center make certain  
13      elections regarding benefits at the time the entity or  
14      governing body joins the Florida Retirement System;  
15      providing that employer-paid employee contributions are  
16      subject to certain taxes; amending s. 121.0515, F.S.;  
17      redefining membership in the Special Risk Class;  
18      redefining criteria for Special Risk Class membership;  
19      providing procedures for designation and removal of  
20      designation of Special Risk Class members; providing for  
21      employee contributions to be used, if applicable, when  
22      purchasing credit for past service; amending s. 121.052,  
23      F.S., relating to the membership class of elected  
24      officers; conforming provisions to changes made by the  
25      act; requiring member contributions; providing for a  
26      refund of contributions under certain circumstances for an  
27      officer who leaves office; providing that a member who  
28      obtains a refund of contributions waives certain rights

29 under the Florida Retirement System; reducing the accrual  
30 value to 1.60 percent for each year of service earned  
31 after July 1, 2011; amending s. 121.053, F.S.; clarifying  
32 the employer contributions required for Elected Officers'  
33 Class members who participate in the Deferred Retirement  
34 Option Program; amending s. 121.055, F.S., relating to the  
35 Senior Management Service Class; conforming provisions to  
36 changes made by the act; requiring employee contributions;  
37 providing for a refund of contributions under certain  
38 circumstances for a member who terminates employment;  
39 providing that a member who obtains a refund of  
40 contributions waives certain rights under the Florida  
41 Retirement System; reducing the accrual value to 1.60  
42 percent for each year of service earned after July 1,  
43 2011; limiting the payment of benefits prior to a  
44 participant's termination of employment; amending s.  
45 121.071, F.S.; requiring employee and employer  
46 contributions to the retirement system effective July 1,  
47 2011; providing for a refund of contributions under  
48 certain circumstances following termination of employment;  
49 prohibiting such refund if an approved qualified domestic  
50 relations order is filed against the participant's  
51 retirement account; requiring repayment plus interest of  
52 an invalid refund; amending s. 121.081, F.S.; providing  
53 and revising requirements for contributions for prior  
54 service performed on or after July 1, 2011; amending s.  
55 121.091, F.S.; setting the annual service accrual rates  
56 for the classes for service earned after July 1, 2011;

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57        reducing the minimum disability retirement benefit for  
58        certain judges to one-third of the monthly compensation at  
59        the time of disability; providing for the refund of  
60        accumulated contributions if a member's employment is  
61        terminated for any reason other than retirement; closing  
62        the Deferred Retirement Option Program to new participants  
63        on July 1, 2011; amending s. 121.101, F.S.; providing a  
64        calculation for cost-of-living adjustments for service  
65        earned after July 1, 2011; amending s. 121.121, F.S.,  
66        relating to the purchase of creditable service following  
67        an authorized leave of absence; requiring that service  
68        credit be purchased at the employee and employer  
69        contribution rates in effect during the leave of absence  
70        effective a certain date; amending s. 121.125, F.S.;  
71        requiring that certain employers make the required  
72        employee and employer retirement contributions following  
73        an employee's workers' compensation injury or illness;  
74        requiring that a penalty be assessed against certain  
75        employers that fail to pay the required contributions;  
76        reenacting s. 121.161, F.S., relating to the references of  
77        other laws as amended; amending s. 121.35, F.S., relating  
78        to the optional retirement program for the State  
79        University System; limiting the payment of benefits prior  
80        to a participant's termination of employment; amending s.  
81        121.4501, F.S.; changing the name of the Public Employee  
82        Optional Retirement Program to the Florida Retirement  
83        System Investment Plan; requiring members of the Florida  
84        Retirement System Investment Plan to make certain

85        contributions to the Florida Retirement System Investment  
86        Plan Trust Fund based on the employee's membership class;  
87        revising and providing definitions; providing for  
88        contribution adjustments as a result of employer errors or  
89        corrections; requiring an employer to receive a credit for  
90        excess contributions and to reimburse an employee for  
91        excess contributions, subject to certain limitations;  
92        providing for a pension plan participant to retain his or  
93        her prior plan choice following a return to employment;  
94        limiting certain refunds of contributions which exceed the  
95        amount that would have accrued had the member remained in  
96        the defined benefit program; providing certain  
97        requirements and limitations with respect to  
98        contributions; clarifying that participant and employer  
99        contributions are earmarked for specified purposes;  
100       providing duties of the third-party administrator;  
101       providing that a member is fully and immediately vested  
102       with respect to employee contributions paid by the member;  
103       providing for the forfeiture of nonvested employer  
104       contributions and service credit under certain  
105       circumstances; amending s. 121.4502, F.S.; changing the  
106       name of the Public Employee Optional Retirement Program  
107       Trust Fund to the Florida Retirement System Investment  
108       Plan Trust Fund; amending s. 121.4503, F.S.; providing for  
109       the deposit of participant contributions into the Florida  
110       Retirement System Contributions Clearing Trust Fund;  
111       amending s. 121.571, F.S.; providing requirements for  
112       submitting employee contributions; amending s. 121.591,

F.S.; limiting the payment of benefits prior to a participant's termination of employment; providing for the forfeiture of nonvested accumulations and service credits upon payment of certain vested benefits; providing that the distribution payment method selected by the participant or beneficiary is final and irrevocable at the time of benefit distribution; prohibiting a distribution of employee contributions if a qualified domestic relations order is filed against the participant's account; amending s. 121.5911, F.S.; conforming provisions to changes made by the act; amending s. 121.70, F.S.; revising legislative intent; amending s. 121.71, F.S.; requiring that employee contributions be deducted from the employee's monthly salary, beginning on a specified date, and treated as employer contributions under certain provisions of federal law; clarifying that an employee may not receive such contributions directly; specifying the required employee retirement contribution rates for the membership of each membership class and subclass of the Florida Retirement System; specifying the required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System in order to address unfunded actuarial liabilities of the system; requiring an assessment to be imposed if the employee contributions remitted are less than the amount required under certain circumstances; providing for the employer to receive a credit for excess contributions remitted and to apply such credit against future

141        contributions owed; amending s. 121.72, F.S.; revising  
142        certain requirements governing allocations to optional  
143        retirement program participant accounts; setting the  
144        allocation into retirement accounts at 11.25 percent for  
145        Special Risk Class members and 9 percent for all other  
146        members; amending s. 121.73, F.S., relating to disability  
147        coverage for participants in the optional retirement  
148        program; amending ss. 121.74, 121.75 and 121.77, F.S.;  
149        conforming provisions to changes made by the act; amending  
150        s. 121.78, F.S.; revising certain requirements for  
151        administering the payment and distribution of  
152        contributions; requiring that certain fees be imposed for  
153        delinquent payments; providing that an employer is  
154        responsible for recovering any refund provided to an  
155        employee in error; revising the terms of an authorized  
156        waiver of delinquency; requiring an employer to receive a  
157        credit for excess contributions and to reimburse an  
158        employee for excess contributions, subject to certain  
159        limitations; requiring the State Board of Administration  
160        and the Department of Management Services to request a  
161        determination letter and private letter ruling from the  
162        United States Internal Revenue Service; providing for  
163        severability; providing legislative findings; providing  
164        that the act fulfills an important state interest;  
165        providing appropriations to and authorizing additional  
166        positions for the Division of Retirement within the  
167        Department of Management Services; providing effective  
168        dates.

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

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

110.123 State group insurance program.—

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

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

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

2. Has attained the age specified by s. 72(t)(2)(A)(i) of the Internal Revenue Code and has 6 years of creditable service.

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

112.0801 Group insurance; participation by retired

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employees.—

~~(1)~~ Any state agency, county, municipality, special district, community college, or district school board that ~~which~~ provides life, health, accident, hospitalization, or annuity insurance, or all of any kinds of such insurance, for its officers and employees and their dependents upon a group insurance plan or self-insurance plan shall allow all former personnel who ~~have~~ retired prior to October 1, 1987, as well as those who retire on or after such date, and their eligible dependents, the option of continuing to participate in the ~~such~~ group insurance plan or self-insurance plan. Retirees and their eligible dependents shall be offered the same health and hospitalization insurance coverage as is offered to active employees at a premium cost of no more than the premium cost applicable to active employees. For ~~the~~ retired employees and their eligible dependents, the cost of ~~any such~~ continued participation ~~in any type of plan or any of the cost thereof~~ may be paid by the employer or by the retired employees. To determine health and hospitalization plan costs, the employer shall commingle the claims experience of the retiree group with the claims experience of the active employees; and, for other types of coverage, the employer may commingle the claims experience of the retiree group with the claims experience of active employees. Retirees covered under Medicare may be experience-rated separately from the retirees not covered by Medicare and from active employees if, ~~provided that~~ the total premium does not exceed that of the active group and coverage is basically the same as for the active group.



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225       ~~(2) For purposes of this section, the term "retiree" has~~  
226 ~~the same meaning as in s. 110.123(2). means any officer or~~  
227 ~~employee who retires under a state retirement system or a state~~  
228 ~~optional annuity or retirement program or is placed on~~  
229 ~~disability retirement and who begins receiving retirement~~  
230 ~~benefits immediately after retirement from employment. In~~  
231 ~~addition to these requirements, any officer or employee who~~  
232 ~~retires under the Public Employee Optional Retirement Program~~  
233 ~~established under part II of chapter 121 shall be considered a~~  
234 ~~"retired officer or employee" or "retiree" as used in this~~  
235 ~~section if he or she:~~

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

238       ~~(b) Has attained the age specified by s. 72(t)(2)(A)(i) of~~  
239 ~~the Internal Revenue Code and has 6 years of creditable service.~~

240       Section 3. Paragraphs (b) and (e) of subsection (2) and  
241 paragraph (e) of subsection (3) of section 112.363, Florida  
242 Statutes, are amended, and paragraphs (f) and (g) are added to  
243 subsection (3) of that section, to read:

244       112.363 Retiree health insurance subsidy.—

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

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

251       1. For a member participant of the investment plan Public  
252 ~~Employee Optional Retirement Program~~ established under part II

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253 of chapter 121, the participant meets the age or service  
254 requirements to qualify for normal retirement as set forth in s.  
255 121.021(29) and meets the definition of retiree in s.  
256 121.4501(2).

257 2. For a member of the Florida Retirement System Pension  
258 Plan ~~defined benefit program~~, or any employee who maintains  
259 creditable service under ~~both~~ the pension plan ~~defined benefit~~  
260 ~~program~~ and the investment plan ~~Public Employee Optional~~  
261 ~~Retirement Program~~, the member begins drawing retirement  
262 benefits from the pension plan ~~defined benefit program of the~~  
263 ~~Florida Retirement System~~.

264 (e) Participants in the Senior Management Service Optional  
265 Annuity Program as provided in s. 121.055(6) and the State  
266 University System Optional Retirement Program as provided in s.  
267 121.35 shall not receive the retiree health insurance subsidy  
268 provided in this section. Prior to July 1, 2011, the employer of  
269 such participant shall pay the contributions required in  
270 subsection (8) to the annuity program provided in s.  
271 121.055(6) (d) or s. 121.35(4) (a), as applicable. Effective July  
272 1, 2011, employer contributions required in subsection (8) may  
273 not be paid to the optional retirement programs provided in ss.  
274 121.35 and 1012.875 or the optional annuity program provided in  
275 s. 121.055(6).

276 (3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

277 (e)1. Beginning July 1, 2001, each eligible retiree of the  
278 pension plan ~~defined benefit program~~ of the Florida Retirement  
279 System, or, if the retiree is deceased, his or her beneficiary  
280 who is receiving a monthly benefit from such retiree's account

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and who is a spouse, or a person who meets the definition of joint annuitant in s. 121.021(28), shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as defined in s. 121.021(17), completed at the time of retirement multiplied by \$5; however, no eligible retiree or beneficiary may receive a subsidy payment of more than \$150 or less than \$30. If there are multiple beneficiaries, the total payment may ~~must~~ not be greater than the payment to which the retiree was entitled. The health insurance subsidy amount payable to any person receiving the retiree health insurance subsidy payment on July 1, 2001, may ~~shall~~ not be reduced solely by operation of this subparagraph.

2. Beginning July 1, 2002, each eligible participant of the investment plan ~~Public Employee Optional Retirement Program~~ of the Florida Retirement System who has met the requirements of this section, or, if the participant is deceased, his or her spouse who is the participant's designated beneficiary, shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as provided in this subparagraph, completed at the time of retirement, multiplied by \$5; however, an ~~no~~ eligible retiree or beneficiary may not receive a subsidy payment of more than \$150 or less than \$30. For purposes of determining a participant's creditable service used to calculate the health insurance subsidy, a participant's years of service credit or fraction thereof shall be based on the participant's work year as defined in s. 121.021(54). Credit must ~~shall~~ be awarded for a full work year if ~~whenever~~ health insurance subsidy contributions have been

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309 made ~~as required by law~~ for each month in the participant's work  
310 year. In addition, all years of creditable service retained  
311 under the Florida Retirement System Pension Plan must ~~defined~~  
312 ~~benefit program shall~~ be included as creditable service for  
313 purposes of this section. Notwithstanding any other provision in  
314 this section ~~to the contrary~~, the spouse at the time of death is  
315 ~~shall be~~ the participant's beneficiary unless such participant  
316 has designated a different beneficiary subsequent to the  
317 participant's most recent marriage.

318 (f)1. Beginning July 1, 2011, each eligible retiree of the  
319 pension plan of the Florida Retirement System, or, if the  
320 retiree is deceased, his or her beneficiary who is receiving a  
321 monthly benefit from such retiree's account and who is a spouse,  
322 or a person who meets the definition of joint annuitant in s.  
323 121.021(28), shall receive a monthly retiree health insurance  
324 subsidy payment equal to the number of years of creditable  
325 service, as defined in s. 121.021(17), completed at the time of  
326 retirement but prior to July 1, 2011, multiplied by \$5. However,  
327 an eligible retiree or beneficiary may not receive a subsidy  
328 payment of more than \$150 or less than \$5. If there are multiple  
329 beneficiaries, the total payment may not be greater than the  
330 payment to which the retiree was entitled. The health insurance  
331 subsidy amount payable to any person receiving the retiree  
332 health insurance subsidy payment on July 1, 2011, may not be  
333 reduced solely by operation of this subparagraph.

334 2. Beginning July 1, 2011, each eligible participant of  
335 the investment plan of the Florida Retirement System who has met  
336 the requirements of this section, or, if the participant is

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337 deceased, his or her spouse who is the participant's designated  
338 beneficiary, shall receive a monthly retiree health insurance  
339 subsidy payment equal to the number of years of creditable  
340 service, as provided in this subparagraph, completed at the time  
341 of retirement, multiplied by \$5. However, an eligible retiree or  
342 beneficiary may not receive a subsidy payment of more than \$150  
343 or less than \$5. For purposes of determining a participant's  
344 creditable service used to calculate the health insurance  
345 subsidy, a participant's years of service credit or fraction  
346 thereof shall be based on the participant's work year as defined  
347 in s. 121.021(54). Credit shall be awarded for a full work year  
348 whenever health insurance subsidy contributions have been made  
349 for each month in the participant's work year. In addition, all  
350 years of creditable service retained under the Florida  
351 Retirement System pension plan must be included as creditable  
352 service for purposes of this section. Notwithstanding any other  
353 provision in this section, the spouse at the time of death is  
354 the participant's beneficiary unless such participant has  
355 designated a different beneficiary subsequent to the  
356 participant's most recent marriage.

357 3. A retiree or beneficiary is not eligible to receive the  
358 subsidy unless the retiree earned 6 years of creditable service  
359 in the Florida Retirement System. Service in the optional  
360 retirement programs administered under ss. 121.35 and 1012.875  
361 and the optional annuity program administered under s.  
362 121.055(6) may not be used to meet this service requirement.

363 (g) Service credit earned on or after July 1, 2011, may  
364 not be used toward the calculation of the amount of the retiree

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365 health insurance subsidy.

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

368 112.65 Limitation of benefits.—

369 (1) ESTABLISHMENT OF PROGRAM.—The normal retirement  
370 benefit or pension payable to a retiree who becomes a member of  
371 any retirement system or plan and who has not previously  
372 participated in such plan, on or after January 1, 1980, may  
373 ~~shall~~ not exceed 100 percent of his or her average final  
374 compensation. However, ~~nothing contained in this section~~ does  
375 not shall apply to supplemental retirement benefits or to  
376 pension increases attributable to cost-of-living increases or  
377 adjustments. For the purposes of this section, benefits accruing  
378 in individual member ~~participant~~ accounts established under the  
379 investment plan ~~Public Employee Optional Retirement Program~~  
380 established in part II of chapter 121 are considered  
381 supplemental benefits. As used in this section, the term  
382 "average final compensation" means the average of the member's  
383 earnings over a period of time which the governmental entity has  
384 established by statute, charter, or ordinance.

385 Section 5. Subsections (3) and (15), paragraph (a) of  
386 subsection (19), paragraph (b) of subsection (22), and  
387 subsections (38), (39), (55), and (59) of section 121.021,  
388 Florida Statutes, are amended to read:

389 121.021 Definitions.—The following words and phrases as  
390 used in this chapter have the respective meanings set forth  
391 unless a different meaning is plainly required by the context:

392 (3) "System" means the general retirement system

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established by this chapter to be known and cited as the "Florida Retirement System," including, but not limited to, the defined benefit ~~retirement~~ program administered under ~~the provisions of part I of this part,~~ referred to as the "Florida Retirement System Pension Plan" or "pension plan" ~~chapter~~ and the defined contribution ~~retirement~~ program ~~known as the Public Employee Optional Retirement Program and~~ administered under ~~the provisions of part II of this chapter,~~ referred to as the "Florida Retirement System Investment Plan" or "investment plan".

(15) "Special risk member" or "Special Risk Class member" means a member of the Florida Retirement System who meets the eligibility and criteria in s. 121.0515 to participate in the Special Risk Class.

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

~~(b) Effective October 1, 1978, "special risk member" means a member of the Florida Retirement System who is designated as a special risk member by the division in accordance with s.~~

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~~121.0515. Such member must be employed as a law enforcement officer, a firefighter, or a correctional officer and must meet certain other special criteria as set forth in s. 121.0515.~~

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

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

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

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

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

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

(a) Service for which the member had credit under one of



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449 the existing systems and received a refund of his or her  
450 contributions upon termination of employment. Prior service  
451 ~~shall also~~ includes ~~include that service between December 1,~~  
452 ~~1970, and the date the system becomes noncontributory~~ for which  
453 the member had credit under the Florida Retirement System and  
454 received a refund of his or her contributions upon termination  
455 of employment.

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

459 (b) ~~Under no circumstances shall~~ Compensation for a member  
460 participating in the pension plan ~~defined benefit retirement~~  
461 ~~program~~ or the investment plan ~~Public Employee Optional~~  
462 ~~Retirement Program~~ of the Florida Retirement System may not  
463 include:

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

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

473 (38) "Continuous service" means creditable service as a  
474 member, beginning with the first day of employment with an  
475 employer covered under a state-administered retirement system  
476 consolidated herein and continuing for as long as the member

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remains in an employer-employee relationship with an employer covered under this chapter. An absence of 1 calendar month or more from an employer's payroll shall be considered a break in continuous service, except for periods of absence during which an employer-employee relationship continues to exist and such period of absence is creditable under this chapter or under one of the existing systems consolidated herein. However, a law enforcement officer as defined in s. 121.0515 (3) ~~(2)~~ (a) who was a member of a state-administered retirement system under chapter 122 or chapter 321 and who resigned and was subsequently reemployed in a law enforcement position within 12 calendar months of such resignation by an employer under such state-administered retirement system shall be deemed to have not experienced a break in service. Further, with respect to a state-employed law enforcement officer who meets the criteria specified in s. 121.0515 (3) ~~(2)~~ (a), if the absence from the employer's payroll is the result of a "layoff" as defined in s. 110.107 or a resignation to run for an elected office that meets the criteria specified in s. 121.0515 (3) ~~(2)~~ (a), no break in continuous service shall be deemed to have occurred if the member is reemployed as a state law enforcement officer or is elected to an office which meets the criteria specified in s. 121.0515 (3) ~~(2)~~ (a) within 12 calendar months after the date of the layoff or resignation, notwithstanding the fact that such period of layoff or resignation is not creditable service under this chapter. A withdrawal of contributions will constitute a break in service. Continuous service also includes past service purchased under this chapter, provided such service is

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continuous within this definition and the rules established by the administrator. The administrator may establish administrative rules and procedures for applying this definition to creditable service authorized under this chapter. Any correctional officer, as defined in s. 943.10, whose participation in the state-administered retirement system is terminated due to the transfer of a county detention facility through a contractual agreement with a private entity pursuant to s. 951.062, shall be deemed an employee with continuous service in the Special Risk Class, provided return to employment with the former employer takes place within 3 years due to contract termination or the officer is employed by a covered employer in a special risk position within 1 year after his or her initial termination of employment by such transfer of its detention facilities to the private entity.

(39) (a) "Termination" occurs, except as provided in paragraph (b), when a member ceases all employment relationships with participating employers ~~an employer~~, however:

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

2. For retirements effective on or after July 1, 2010, if

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533 a member is employed by any such employer within the next 6  
534 calendar months, termination shall be deemed not to have  
535 occurred. A leave of absence constitutes a continuation of the  
536 employment relationship, except that a leave of absence without  
537 pay due to disability may constitute termination if such member  
538 makes application for and is approved for disability retirement  
539 in accordance with s. 121.091(4). The department or state board  
540 may require other evidence of termination as it deems necessary.

541 (b) "Termination" for a member electing to participate in  
542 the Deferred Retirement Option Program occurs when the program  
543 participant ceases all employment relationships with  
544 participating employers ~~an employer~~ in accordance with s.  
545 121.091(13), however:

546 1. For termination dates occurring before July 1, 2010, if  
547 the participant is employed by any such employer within the next  
548 calendar month, termination will be deemed not to have occurred,  
549 except as provided in s. 121.091(13)(b)4.c. A leave of absence  
550 shall constitute a continuation of the employment relationship.

551 2. For termination dates occurring on or after July 1,  
552 2010, if the participant becomes employed by any such employer  
553 within the next 6 calendar months, termination will be deemed  
554 not to have occurred, except as provided in s.  
555 121.091(13)(b)4.c. A leave of absence constitutes a continuation  
556 of the employment relationship.

557 (c) Effective July 1, 2011, "termination" for a member  
558 receiving a refund of employee contributions occurs when a  
559 member ceases all employment relationships with participating  
560 employers for 3 calendar months. A leave of absence for less

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than 3 calendar months constitutes a continuation of the  
employment relationship.

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

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

Section 6. Paragraphs (b) and (c) of subsection (2) and  
subsection (3) of section 121.051, Florida Statutes, are amended  
to read:

121.051 Participation in the system.—

(2) OPTIONAL PARTICIPATION.—

(b)1. The governing body of any municipality, metropolitan  
planning organization, or special district in the state may  
elect to participate in the system upon proper application to  
the administrator and may cover all or any of its units as  
approved by the Secretary of Health and Human Services and the  
administrator. The department shall adopt rules establishing  
procedures ~~provisions~~ for the submission of documents necessary  
for such application. Prior to being approved for participation  
in the Florida Retirement System, the governing body of a ~~any~~  
~~such~~ municipality, metropolitan planning organization, or  
special district that has a local retirement system must ~~shall~~  
submit to the administrator a certified financial statement  
showing the condition of the local retirement system as of a  
date within 3 months prior to the proposed effective date of  
membership in the Florida Retirement System. The statement must

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589 be certified by a recognized accounting firm that is independent  
590 of the local retirement system. All required documents necessary  
591 for extending Florida Retirement System coverage must be  
592 received by the department for consideration at least 15 days  
593 prior to the proposed effective date of coverage. If the  
594 municipality, metropolitan planning organization, or special  
595 district does not comply with this requirement, the department  
596 may require that the effective date of coverage be changed.

597 2. Any city, metropolitan planning organization, or  
598 special district that has an existing retirement system covering  
599 the employees in the units that are to be brought under the  
600 Florida Retirement System may participate only after holding a  
601 referendum in which all employees in the affected units have the  
602 right to participate. Only those employees electing coverage  
603 under the Florida Retirement System by affirmative vote in said  
604 referendum shall be eligible for coverage under this chapter,  
605 and those not participating or electing not to be covered by the  
606 Florida Retirement System shall remain in their present systems  
607 and shall not be eligible for coverage under this chapter. After  
608 the referendum is held, all future employees shall be compulsory  
609 members of the Florida Retirement System.

610 3. At the time of joining the Florida Retirement System,  
611 the governing body of any city, metropolitan planning  
612 organization, or special district complying with subparagraph 1.  
613 may elect to provide, or not provide, benefits based on past  
614 service of officers and employees as described in s. 121.081(1).  
615 However, if such employer elects to provide past service  
616 benefits, such benefits must be provided for all officers and

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employees of its covered group.

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

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

a. No more than 30 days and at least 7 days before adopting a resolution to partially withdraw from the Florida Retirement System and establish an alternative retirement plan for future employees, a public hearing must be held on the proposed withdrawal and proposed alternative plan.

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

c. The governing body of a ~~any~~ hospital district seeking

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645 to partially withdraw from the system must, before such hearing,  
646 have an actuarial report prepared and certified by an enrolled  
647 actuary, as defined in s. 112.625(3), illustrating the cost to  
648 the hospital district of providing, through the retirement plan  
649 that the hospital district is to adopt, benefits for new  
650 employees comparable to those provided under the Florida  
651 Retirement System.

652       d. Upon meeting all applicable requirements of this  
653 subparagraph, and subject to the conditions set forth in  
654 subparagraph 6., partial withdrawal from the system and adoption  
655 of the alternative retirement plan may be accomplished by  
656 resolution duly adopted by the hospital district board. The  
657 hospital district board must provide written notice of such  
658 withdrawal to the division by mailing a copy of the resolution  
659 to the division, postmarked by ~~no later than~~ December 15, 1995.  
660 The withdrawal shall take effect January 1, 1996.

661       6. Following the adoption of a resolution under sub-  
662 subparagraph 5.d., all employees of the withdrawing hospital  
663 district who were participants in the Florida Retirement System  
664 before ~~prior to~~ January 1, 1996, shall remain as participants in  
665 the system for as long as they are employees of the hospital  
666 district, and all rights, duties, and obligations between the  
667 hospital district, the system, and the employees shall remain in  
668 full force and effect. Any employee who is hired or appointed on  
669 or after January 1, 1996, may not participate in the Florida  
670 Retirement System, and the withdrawing hospital district shall  
671 have no obligation to the system with respect to such employees.

672       (c) Employees of public community colleges or charter



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673 technical career centers sponsored by public community colleges,  
674 designated in s. 1000.21(3), who are members of the Regular  
675 Class of the Florida Retirement System and who comply with the  
676 criteria set forth in this paragraph and s. 1012.875 may, in  
677 lieu of participating in the Florida Retirement System, elect to  
678 withdraw from the system altogether and participate in the State  
679 Community College System Optional Retirement Program provided by  
680 the employing agency under s. 1012.875.

681 1. Through June 30, 2001, the cost to the employer for  
682 benefits under the optional retirement program ~~such annuity~~  
683 equals the normal cost portion of the employer retirement  
684 contribution which would be required if the employee were a  
685 member of the pension plan's Regular Class ~~defined benefit~~  
686 ~~program~~, plus the portion of the contribution rate required by  
687 s. 112.363(8) which would otherwise be assigned to the Retiree  
688 Health Insurance Subsidy Trust Fund. Effective July 1, 2001,  
689 each employer shall contribute on behalf of each participant in  
690 the optional program an amount equal to 10.43 percent of the  
691 participant's gross monthly compensation. The employer shall  
692 deduct an amount for the administration of the program. The  
693 employer shall contribute an additional amount to the Florida  
694 Retirement System Trust Fund equal to the unfunded actuarial  
695 accrued liability portion of the Regular Class contribution  
696 rate.

697 2. The decision to participate in the ~~an~~ optional  
698 retirement program is irrevocable as long as the employee holds  
699 a position eligible for participation, except as provided in  
700 subparagraph 3. Any service creditable under the Florida

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701 Retirement System is retained after the member withdraws from  
702 the system; however, additional service credit in the system may  
703 not be earned while a member of the optional retirement program.

704 3. An employee who has elected to participate in the  
705 optional retirement program shall have one opportunity, at the  
706 employee's discretion, to transfer from the optional retirement  
707 program to the pension plan ~~defined benefit program~~ of the  
708 Florida Retirement System or to the investment plan established  
709 under part II of this chapter ~~Public Employee Optional~~  
710 ~~Retirement Program~~, subject to the terms of the applicable  
711 optional retirement program contracts.

712 a. If the employee chooses to move to the investment plan  
713 ~~Public Employee Optional Retirement Program~~, any contributions,  
714 interest, and earnings creditable to the employee under the  
715 ~~State Community College System~~ optional retirement program are  
716 retained by the employee in the ~~State Community College System~~  
717 optional retirement program, and the applicable provisions of s.  
718 121.4501(4) govern the election.

719 b. If the employee chooses to move to the pension plan  
720 ~~defined benefit program~~ of the Florida Retirement System, the  
721 employee shall receive service credit equal to his or her years  
722 of service under the ~~State Community College System~~ optional  
723 retirement program.

724 (I) The cost for such credit is the amount representing  
725 the present value of the employee's accumulated benefit  
726 obligation for the affected period of service. The cost shall be  
727 calculated as if the benefit commencement occurs on the first  
728 date the employee becomes eligible for unreduced benefits, using

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729 the discount rate and other relevant actuarial assumptions that  
730 were used to value the Florida Retirement System pension ~~defined~~  
731 ~~benefit~~ plan liabilities in the most recent actuarial valuation.  
732 The calculation must include any service already maintained  
733 under the pension ~~defined benefit~~ plan in addition to the years  
734 under the ~~State Community College System~~ optional retirement  
735 program. The present value of any service already maintained  
736 must be applied as a credit to total cost resulting from the  
737 calculation. The division shall ensure that the transfer sum is  
738 prepared using a formula and methodology certified by an  
739 enrolled actuary.

740 (II) The employee must transfer from his or her ~~State~~  
741 ~~Community College System~~ optional retirement program account and  
742 from other employee moneys as necessary, a sum representing the  
743 present value of the employee's accumulated benefit obligation  
744 immediately following the time of such movement, determined  
745 assuming that attained service equals the sum of service in the  
746 pension plan ~~defined benefit program~~ and service in the ~~State~~  
747 ~~Community College System~~ optional retirement program.

748 4. Participation in the optional retirement program is  
749 limited to employees who satisfy the following eligibility  
750 criteria:

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

755 b. The employee is ~~must be~~ employed in a full-time  
756 position classified in the Accounting Manual for Florida's

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Public Community Colleges as:

(I) Instructional; or

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

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

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

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

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received by the division.

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

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

7. Effective July 1, 2003, through December 31, 2008, any participant in ~~of~~ the ~~State Community College System~~ optional retirement program who has service credit in the pension ~~defined benefit~~ plan of the Florida Retirement System for the period between his or her first eligibility to transfer from the

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pension ~~defined benefit~~ plan to the optional retirement program and the actual date of transfer may, during employment, transfer to the optional retirement program a sum representing the present value of the accumulated benefit obligation under the defined benefit retirement program for the period of service credit. Upon transfer, all service credit previously earned under the pension plan ~~defined benefit program of the Florida Retirement System~~ during this period is nullified for purposes of entitlement to a future benefit under the pension plan ~~defined benefit program of the Florida Retirement System~~.

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

Section 7. Section 121.0515, Florida Statutes, is amended to read:

121.0515 Special Risk Class ~~membership~~.—

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841           (1) ESTABLISHMENT OF CLASS ~~LEGISLATIVE INTENT.~~—There is  
842 established a separate ~~In creating the Special Risk~~ class of  
843 membership within the Florida Retirement System, to be known as  
844 the "Special Risk Class," ~~it is the intent and purpose of the~~  
845 ~~Legislature~~ to recognize that persons employed in certain  
846 categories of law enforcement, firefighting, criminal detention,  
847 and emergency medical care positions are required as one of the  
848 essential functions of their positions to perform work that is  
849 physically demanding or arduous, or work that requires  
850 extraordinary agility and mental acuity, and that such persons,  
851 because of diminishing physical and mental faculties, may find  
852 that they are not able, without risk to the health and safety of  
853 themselves, the public, or their coworkers, to continue  
854 performing such duties and thus enjoy the full career and  
855 retirement benefits enjoyed by persons employed in other  
856 membership classes ~~positions~~ and that, if they find it  
857 necessary, due to the physical and mental limitations of their  
858 age, to retire at an earlier age and usually with less service,  
859 they will suffer an economic deprivation therefrom. To address  
860 ~~Therefore, as a means of recognizing~~ the peculiar and special  
861 problems of this class of employees, ~~it is the intent and~~  
862 ~~purpose of the Legislature to establish~~ a class of retirement  
863 membership is established that awards more retirement credit per  
864 year of service than that awarded to other employees; however,  
865 nothing contained herein shall require ineligibility for Special  
866 Risk Class membership upon reaching age 55.

867           (2) MEMBERSHIP.—

868           (a) Until October 1, 1978, "special risk member" means any

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officer or employee whose application is approved by the administrator and who receives salary payments for work performed as a peace officer; law enforcement officer; police officer; highway patrol officer; custodial employee at a correctional or detention facility; correctional agency employee whose duties and responsibilities involve direct contact with inmates, but excluding secretarial and clerical employees; firefighter; or an employee in any other job in the field of law enforcement or fire protection if the duties of such person are certified as hazardous by his or her employer.

(b) Effective October 1, 1978, through September 30, 1999, "special risk member" means a member of the Florida Retirement System who is designated as a special risk member by the division in accordance with this section. Such member must be employed as a law enforcement officer, a firefighter, or a correctional officer and must meet certain other special criteria as set forth in this section.

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

(d)1. Effective January 1, 2001, "special risk member" includes any member who is employed as a community-based correctional probation officer and meets the special criteria set forth in paragraph (3)(e).



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897        2. Effective January 1, 2001, "special risk member"  
898        includes any professional health care bargaining unit or non-  
899        unit member who is employed by the Department of Corrections or  
900        the Department of Children and Family Services and meets the  
901        special criteria set forth in paragraph (3) (f).

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

906        (f) Effective August 1, 2008, "special risk member"  
907        includes any member who meets the special criteria for continued  
908        membership set forth in paragraph (3) (k).

909        (3)-(2) CRITERIA.—A member, to be designated as a special  
910        risk member, must meet the following criteria:

911        (a) Effective October 1, 1978, the member must be employed  
912        as a law enforcement officer and be certified, or required to be  
913        certified, in compliance with s. 943.1395; however, sheriffs and  
914        elected police chiefs shall be excluded from meeting the  
915        certification requirements of this paragraph. In addition, the  
916        member's duties and responsibilities must include the pursuit,  
917        apprehension, and arrest of law violators or suspected law  
918        violators; or as of July 1, 1982, the member must be an active  
919        member of a bomb disposal unit whose primary responsibility is  
920        the location, handling, and disposal of explosive devices; or  
921        the member must be the supervisor or command officer of a member  
922        or members who have such responsibilities; provided, however,  
923        administrative support personnel, including, but not limited to,  
924        those whose primary duties and responsibilities are in

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accounting, purchasing, legal, and personnel, shall not be included;

(b) Effective October 1, 1978, the member must be employed as a firefighter and be certified, or required to be certified, in compliance with s. 633.35 and be employed solely within the fire department of a local government employer or an agency of state government with firefighting responsibilities. In addition, the member's duties and responsibilities must include on-the-scene fighting of fires; as of October 1, 2001, fire prevention, ~~or firefighter training;~~ as of October 1, 2001, direct supervision of firefighting units, fire prevention, or firefighter training; or as of July 1, 2001, aerial firefighting surveillance performed by fixed-wing aircraft pilots employed by the Division of Forestry of the Department of Agriculture and Consumer Services; or the member must be the supervisor or command officer of a member or members who have such responsibilities; provided, however, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall not be included and further provided that all periods of creditable service in fire prevention or firefighter training, or as the supervisor or command officer of a member or members who have such responsibilities, and for which the employer paid the special risk contribution rate, shall be included;

(c) Effective October 1, 1978, the member must be employed as a correctional officer and be certified, or required to be certified, in compliance with s. 943.1395. In addition, the

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953 member's primary duties and responsibilities must be the  
954 custody, and physical restraint when necessary, of prisoners or  
955 inmates within a prison, jail, or other criminal detention  
956 facility, or while on work detail outside the facility, or while  
957 being transported; or as of July 1, 1984, the member must be the  
958 supervisor or command officer of a member or members who have  
959 such responsibilities; provided, however, administrative support  
960 personnel, including, but not limited to, those whose primary  
961 duties and responsibilities are in accounting, purchasing,  
962 legal, and personnel, shall not be included; however, wardens  
963 and assistant wardens, as defined by rule, shall participate in  
964 the Special Risk Class;

965 (d) Effective October 1, 1999, the member must be employed  
966 by a licensed Advance Life Support (ALS) or Basic Life Support  
967 (BLS) employer as an emergency medical technician or a paramedic  
968 and be certified in compliance with s. 401.27. In addition, the  
969 member's primary duties and responsibilities must include on-  
970 the-scene emergency medical care or as of October 1, 2001,  
971 direct supervision of emergency medical technicians or  
972 paramedics, or the member must be the supervisor or command  
973 officer of one or more members who have such responsibility.  
974 However, administrative support personnel, including, but not  
975 limited to, those whose primary responsibilities are in  
976 accounting, purchasing, legal, and personnel, shall not be  
977 included;

978 (e) Effective January 1, 2001, the member must be employed  
979 as a community-based correctional probation officer and be  
980 certified, or required to be certified, in compliance with s.

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943.1395. In addition, the member's primary duties and responsibilities must be the supervised custody, surveillance, control, investigation, and counseling of assigned inmates, probationers, parolees, or community controllees within the community; or the member must be the supervisor of a member or members who have such responsibilities. Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal services, and personnel management, shall not be included; however, probation and parole circuit and deputy circuit administrators shall participate in the Special Risk Class;

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

1. Dietitian (class codes 5203 and 5204);
2. Public health nutrition consultant (class code 5224);
3. Psychological specialist (class codes 5230 and 5231);
4. Psychologist (class code 5234);
5. Senior psychologist (class codes 5237 and 5238);
6. Regional mental health consultant (class code 5240);
7. Psychological Services Director—DCF (class code 5242);
8. Pharmacist (class codes 5245 and 5246);
9. Senior pharmacist (class codes 5248 and 5249);
10. Dentist (class code 5266);
11. Senior dentist (class code 5269);
12. Registered nurse (class codes 5290 and 5291);

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1009           13. Senior registered nurse (class codes 5292 and 5293);  
 1010           14. Registered nurse specialist (class codes 5294 and  
 1011 5295);  
 1012           15. Clinical associate (class codes 5298 and 5299);  
 1013           16. Advanced registered nurse practitioner (class codes  
 1014 5297 and 5300);  
 1015           17. Advanced registered nurse practitioner specialist  
 1016 (class codes 5304 and 5305);  
 1017           18. Registered nurse supervisor (class codes 5306 and  
 1018 5307);  
 1019           19. Senior registered nurse supervisor (class codes 5308  
 1020 and 5309);  
 1021           20. Registered nursing consultant (class codes 5312 and  
 1022 5313);  
 1023           21. Quality management program supervisor (class code  
 1024 5314);  
 1025           22. Executive nursing director (class codes 5320 and  
 1026 5321);  
 1027           23. Speech and hearing therapist (class code 5406); or  
 1028           24. Pharmacy manager (class code 5251);  
 1029           (g) Effective July 1, 2001, the member must be employed as  
 1030 a youth custody officer and be certified, or required to be  
 1031 certified, in compliance with s. 943.1395. In addition, the  
 1032 member's primary duties and responsibilities must be the  
 1033 supervised custody, surveillance, control, investigation,  
 1034 apprehension, arrest, and counseling of assigned juveniles  
 1035 within the community;  
 1036           (h) Effective October 1, 2005, through June 30, 2008, the

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member must be employed by a law enforcement agency or medical examiner's office in a forensic discipline recognized by the International Association for Identification and must qualify for active membership in the International Association for Identification. The member's primary duties and responsibilities must include the collection, examination, preservation, documentation, preparation, or analysis of physical evidence or testimony, or both, or the member must be the direct supervisor, quality management supervisor, or command officer of one or more individuals with such responsibility. Administrative support personnel, including, but not limited to, those whose primary responsibilities are clerical or in accounting, purchasing, legal, and personnel, shall not be included;

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

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

(j) Effective July 1, 2008, the member must be employed by a local government law enforcement agency or medical examiner's office and must spend at least 65 percent of his or her time performing duties that involve the collection, examination,

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1065 preservation, documentation, preparation, or analysis of human  
1066 tissues or fluids or physical evidence having potential  
1067 biological, chemical, or radiological hazard or contamination,  
1068 or use chemicals, processes, or materials that may have  
1069 carcinogenic or health-damaging properties in the analysis of  
1070 such evidence, or the member must be the direct supervisor of  
1071 one or more individuals having such responsibility. If a special  
1072 risk member changes to another position within the same agency,  
1073 he or she must submit a complete application as provided in  
1074 paragraph (4)~~(3)~~(a); or

1075 (k) The member must have already qualified for and be  
1076 actively participating in special risk membership under  
1077 paragraph (a), paragraph (b), or paragraph (c), must have  
1078 suffered a qualifying injury as defined in this paragraph, must  
1079 not be receiving disability retirement benefits as provided in  
1080 s. 121.091(4), and must satisfy the requirements of this  
1081 paragraph.

1082 1. The ability to qualify for the class of membership  
1083 defined in paragraph (2) (f) ~~s. 121.021(15)(f)~~ shall occur when  
1084 two licensed medical physicians, one of whom is a primary  
1085 treating physician of the member, certify the existence of the  
1086 physical injury and medical condition that constitute a  
1087 qualifying injury as defined in this paragraph and that the  
1088 member has reached maximum medical improvement after August 1,  
1089 2008. The certifications from the licensed medical physicians  
1090 must include, at a minimum, that the injury to the special risk  
1091 member has resulted in a physical loss, or loss of use, of at  
1092 least two of the following: left arm, right arm, left leg, or

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right leg; and:

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

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

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

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

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

2. For the purposes of this paragraph, "qualifying injury" means an injury sustained in the line of duty, as certified by the member's employing agency, by a special risk member that does not result in total and permanent disability as defined in s. 121.091(4)(b). An injury is a qualifying injury when the injury is a physical injury to the member's physical body resulting in a physical loss, or loss of use, of at least two of the following: left arm, right arm, left leg, or right leg. Notwithstanding anything in this section to the contrary, an



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injury that would otherwise qualify as a qualifying injury shall not be considered a qualifying injury if and when the member ceases employment with the employer for whom he or she was providing special risk services on the date the injury occurred.

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

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

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

(a)1. Any Regular Class member of the Florida Retirement System employed by a county, city, or special district who feels that his or her position ~~he or she~~ meets the criteria set forth in this section for membership in the Special Risk Class may request that his or her employer submit an application to the department requesting that the department designate him or her as a Special Risk Class member. Such Regular Class member shall complete the appropriate portions of an Application for Special Risk Membership provided in Form FRS-400 or Form FRS-405. If the

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1149 employer agrees that the member meets the requirements for  
1150 Special Risk Class membership, the employer shall certify and  
1151 submit an application as set forth in this section and submit a  
1152 copy of the current official job description of the member's  
1153 duties showing the percentage of time spent performing each duty  
1154 and a copy of a personnel action form showing the effective date  
1155 of membership in that position to the department on ~~in~~ behalf of  
1156 the employee ~~containing a certification that the member meets~~  
1157 ~~the criteria for special risk membership set forth in this~~  
1158 ~~section and such other supporting documentation as may be~~  
1159 ~~required by administrative rule. The department shall, within 90~~  
1160 ~~days, either designate or refuse to designate the member as a~~  
1161 ~~special risk member.~~

1162 2. Upon receipt of the completed application, proof of  
1163 certification, and supporting documentation, the department  
1164 shall determine if the member meets the requirements for Special  
1165 Risk Class membership. If the requirements are met, the  
1166 department shall approve the member for Special Risk Class  
1167 membership. The employer shall certify to the department any  
1168 changes to the duties and responsibilities of a Special Risk  
1169 Class member. The department shall review the documentation for  
1170 changes to duties and responsibilities and either continue the  
1171 approval of Special Risk Class membership or reclassify the  
1172 member to Regular Class membership.

1173 3. If the employer refuses to certify the member's  
1174 application for Special Risk Class membership, the employer  
1175 shall notify the member of the employer's refusal to certify and  
1176 the reasons for the refusal. If the employer declines to submit

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1177 the member's application to the department, ~~or if~~ the department  
1178 does not designate the member to the ~~as a~~ Special Risk Class, or  
1179 the department removes the member from the Special Risk Class  
1180 ~~member~~, the member or the employer may appeal to the State  
1181 Retirement Commission, as provided in s. 121.23, for designation  
1182 as a Special Risk Class member. A member who receives a final  
1183 affirmative ruling pursuant to such appeal for Special Risk  
1184 Class membership shall have Special Risk Class membership  
1185 retroactive to the date such member would have had Special Risk  
1186 Class membership had such membership been approved by the  
1187 employer and the department, as determined by the department,  
1188 and the employer contributions shall be paid in full within 1  
1189 year after such final ruling.

1190 (b)1. Applying the criteria set forth in this section, the  
1191 Department of Management Services shall specify which current  
1192 and newly created classes of positions under the uniform  
1193 classification plan established pursuant to chapter 110 entitle  
1194 the incumbents of positions in those classes to membership in  
1195 the Special Risk Class. Only employees employed in the classes  
1196 so specified shall be special risk members.

1197 2. When a class is not specified by the department as  
1198 provided in subparagraph 1., the employing agency may petition  
1199 the State Retirement Commission for approval in accordance with  
1200 s. 121.23.

1201 (5)(4) REMOVAL OF SPECIAL RISK CLASS MEMBERSHIP.—

1202 (a) Any member who is a special risk member on October 1,  
1203 1978, and who fails to meet the criteria for special risk  
1204 membership established by this section shall have his or her

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special risk designation removed and thereafter shall be a regular member and shall earn only regular membership credit. The department shall have the authority to review the special risk designation of members to determine whether or not those members continue to meet the criteria for special risk membership.

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

(c) Any member who is a Special Risk Class member and who fails to meet the criteria for the Special Risk Class shall have his or her special risk class designation removed and thereafter shall be a Regular Class member and earn only Regular Class membership service credit. The department may review the Special Risk Class designation of members to determine whether or not those members continue to meet the criteria for Special Risk Class membership.

~~(6)(5)~~ CREDIT FOR PAST SERVICE.—A special risk member may purchase retirement credit in the Special Risk Class based upon past service, and may upgrade retirement credit for such past service, to the extent of 2 percent of the member's average

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monthly compensation as specified in s. 121.091(1)(a) for such service as follows:

(a) The member may purchase special risk credit for past service with a city or special district which has elected to join the Florida Retirement System, or with a participating agency to which a member's governmental unit was transferred, merged, or consolidated as provided in s. 121.081(1)(f), if the member was employed with the city or special district at the time it commenced participating in the Florida Retirement System or with the governmental unit at the time of its transfer, merger, or consolidation with the participating agency. The service must satisfy the criteria set forth in subsection (3) ~~(2)~~ for special risk membership as a law enforcement officer, firefighter, or correctional officer; however, no certificate or waiver of certificate of compliance with s. 943.1395 or s. 633.35 shall be required for such service.

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

(7) ~~(6)~~ CREDIT FOR PRIOR SERVICE.—A special risk member who has creditable service with an employer under chapter 122 or

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chapter 321, or was employed as a correctional counselor with the Department of Corrections between December 1, 1970, and September 30, 1979, in a position which satisfies the criteria provided for in subsection (3) ~~(2)~~ for special risk membership except the requirement for a certificate or waiver of certificate, shall have those years of service counted towards the attainment of the normal retirement date as a special risk member under this chapter. The percentage value of each such year of creditable service under chapter 122, chapter 321, or as a correctional counselor shall not change as a result of the application of this subsection. A special risk member who has taken a refund of contributions for such creditable service under chapter 122 or chapter 321 and has reclaimed it as prior service credit under this chapter shall be permitted to have such creditable service counted towards the attainment of the normal retirement date for the Special Risk Class of membership under this chapter.

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

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

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1289 Notwithstanding the provisions of subsection (5) ~~(4)~~, service in  
1290 such an administrative support position shall, for purposes of  
1291 s. 121.091, apply toward satisfaction of the special risk normal  
1292 retirement date, as defined in s. 121.021(29)(b), provided that,  
1293 while in such position, the member remains certified as a law  
1294 enforcement officer, firefighter, correctional officer,  
1295 emergency medical technician, or paramedic; remains subject to  
1296 reassignment at any time to a position qualifying for special  
1297 risk membership; and completes an aggregate of 6 or more years  
1298 of service as a designated special risk member prior to  
1299 retirement.

1300 (b) Upon application by a member, the provisions of this  
1301 subsection shall apply, with respect to such member,  
1302 retroactively to October 1, 1978, provided that the member was  
1303 removed from the Special Risk Class effective October 1, 1978,  
1304 due to a change in special risk criteria as a result of the  
1305 enactment of chapter 78-308, Laws of Florida, or was reassigned  
1306 or employed for training or career development or to fill a  
1307 critical agency need.

1308 (c) The department shall adopt such rules as are required  
1309 to administer this subsection.

1310 (d) Notwithstanding any provision of this subsection to  
1311 the contrary, this subsection does not apply to any special risk  
1312 member who qualifies for continued membership pursuant to the  
1313 provisions of paragraph (3) ~~(2)~~ (k).

1314 (9) ~~(8)~~ RESTORATION OF SPECIAL RISK CREDIT FOR SPECIFIED  
1315 PERIOD OF EMPLOYMENT.—A special risk member who was removed from  
1316 the Special Risk Class effective October 1978, for the sole

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reason that he or she did not possess the required certificate or temporary waiver of certificate, and who obtained certification and was approved for special risk membership on or before June 30, 1982, shall be permitted to have special risk credit restored for that period upon:

(a) Certification by his or her employer that all requirements for special risk membership except the requirement for certification or temporary waiver of certification were met; and

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

This credit may be purchased by the member or by the employer on behalf of the member.

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

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

121.091(1)(a)2. Contributions for upgrading such service to Special Risk Class credit under this subsection shall be equal



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1345 to the difference in the contributions paid and the Special Risk  
1346 Class contribution rate as a percentage of gross salary in  
1347 effect for the period being claimed, plus interest thereon at  
1348 the rate of 6.5 percent a year, compounded annually until the  
1349 date of payment. This service credit may be purchased by the  
1350 employer on behalf of the member.

1351 (b) Any member of the Special Risk Class who has earned  
1352 creditable service through September 30, 2001, in another  
1353 membership class of the Florida Retirement System whose  
1354 responsibilities included fire prevention or firefighter  
1355 training, which service is within the purview of the Special  
1356 Risk Class, may purchase additional retirement credit to upgrade  
1357 such service to Special Risk Class service, to the extent of the  
1358 percentages of the member's average final compensation provided  
1359 in s. 121.091(1)(a)2. Contributions for upgrading such service  
1360 to Special Risk Class credit under this subsection shall be  
1361 equal to the difference in the contributions paid and the  
1362 Special Risk Class contribution rate as a percentage of gross  
1363 salary in effect for the period being claimed, plus interest  
1364 thereon at the rate of 6.5 percent a year, compounded annually  
1365 until the date of payment. This service credit may be purchased  
1366 by the employer on behalf of the member.

1367 (c) Any member of the Special Risk Class who has earned  
1368 creditable service through June 30, 2005, in another membership  
1369 class of the Florida Retirement System in a position with the  
1370 Department of Law Enforcement or the Division of State Fire  
1371 Marshal and became covered by the Special Risk Class as  
1372 described in paragraph (3)~~(2)~~(i), or with a local government law

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1373 enforcement agency or medical examiner's office and became  
1374 covered by the Special Risk Class as described in paragraph  
1375 (3)~~(2)~~(j), which service is within the purview of the Special  
1376 Risk Class, and is employed in such position on or after July 1,  
1377 2008, may purchase additional retirement credit to upgrade such  
1378 service to Special Risk Class service, to the extent of the  
1379 percentages of the member's average final compensation provided  
1380 in s. 121.091(1)(a)2. The cost for such credit shall be an  
1381 amount representing the actuarial accrued liability for the  
1382 difference in accrual value during the affected period of  
1383 service. The cost shall be calculated using the discount rate  
1384 and other relevant actuarial assumptions that were used to value  
1385 the Florida Retirement System Pension ~~defined benefit~~ Plan  
1386 liabilities in the most recent actuarial valuation. The division  
1387 shall ensure that the transfer sum is prepared using a formula  
1388 and methodology certified by an enrolled actuary. The cost must  
1389 be paid immediately upon notification by the division. The local  
1390 government employer may purchase the upgraded service credit on  
1391 behalf of the member if the member has been employed by that  
1392 employer for at least 3 years.

1393 Section 8. Paragraphs (a) and (d) of subsection (4),  
1394 paragraph (b) of subsection (7), and subsection (10) of section  
1395 121.052, Florida Statutes, are amended, present paragraph (c) of  
1396 subsection (7) of that section is redesignated as paragraph (d),  
1397 and a new paragraph (c) is added to that subsection, to read:

1398 121.052 Membership class of elected officers.—

1399 (4) PARTICIPATION BY ELECTED OFFICERS SERVING A SHORTENED  
1400 TERM DUE TO APPORTIONMENT, FEDERAL INTERVENTION, ETC.—

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

(d)1. Any justice or judge, or any retired justice or judge who retired before July 1, 1993, who has attained the age of 70 years and who is prevented under s. 8, Art. V of the State Constitution from completing his or her term of office because of age may elect to purchase credit for all or a portion of the months he or she would have served during the remainder of the term of office, but he or she may claim those months only after the date the service would have occurred. The justice or judge must pay into the System Trust Fund the amount of contributions that would have been made by the employer on his or her behalf for the period of time being claimed, plus 6.5 percent interest thereon compounded each June 30 from the date he or she left office, in order to receive service credit in this class for the period of time being claimed. After the date the service would have occurred, and upon payment of the required contributions, the retirement benefit of a retired justice or judge shall ~~will~~

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1429 be adjusted prospectively to include the ~~this~~ additional  
1430 creditable service; however, such adjustment may be made only  
1431 once.

1432 2. Any justice or judge who does not seek election to a  
1433 subsequent term of office because he or she would be prevented  
1434 under s. 8, Art. V of the State Constitution from completing  
1435 such term of office upon attaining the age of 70 years may elect  
1436 to purchase service credit for service as a temporary judge as  
1437 assigned by the court if the temporary assignment follows  
1438 immediately the last full term of office served and the purchase  
1439 is limited to the number of months of service needed to vest  
1440 retirement benefits. To receive retirement credit for such  
1441 temporary service beyond termination, the justice or judge must  
1442 pay into the System Trust Fund the amount of contributions that  
1443 would have been made by the justice or judge and the employer on  
1444 his or her behalf had he or she continued in office for the  
1445 period of time being claimed, plus 6.5 percent interest thereon  
1446 compounded each June 30 from the date he or she left office.

1447 (7) CONTRIBUTIONS.—

1448 (b) The employer paying the salary of a member of the  
1449 Elected Officers' Class shall contribute an amount as specified  
1450 in this subsection or s. 121.71, as appropriate, which shall  
1451 constitute the ~~entire~~ employer retirement contribution with  
1452 respect to such member. The employer shall also withhold one-  
1453 half of the entire contribution of the member required for  
1454 social security coverage. Effective July 1, 2011, each member of  
1455 the Elected Officers' Class shall pay employee contributions as  
1456 specified in s. 121.71.

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1457        (c) If a member of the Elected Officers' Class ceases to  
1458 fill an office covered by this class for 3 calendar months for  
1459 any reason other than retirement and has not been employed in  
1460 any capacity with any participating employer for 3 calendar  
1461 months, the member may receive a refund of all contributions he  
1462 or she has made to the pension plan, subject to the restrictions  
1463 otherwise provided in this chapter. Partial refunds are not  
1464 permitted. The refund shall not include any interest earnings on  
1465 the contributions for a member of the pension plan. Employer  
1466 contributions made on behalf of the member are not refundable. A  
1467 member may not receive a refund of employee contributions if a  
1468 pending or an approved qualified domestic relations order is  
1469 filed against the member's retirement account. By obtaining a  
1470 refund of contributions, a member waives all rights under the  
1471 Florida Retirement System and the health insurance subsidy  
1472 provided under s. 112.363 to the service credit represented by  
1473 the refunded contributions, except the right to purchase his or  
1474 her prior service credit in accordance with s. 121.081(2).

1475        (10) ACCRUED SERVICE VALUE.—Prior to July 1, 2011, a  
1476 member of the Elected Officers' Class who is a Supreme Court  
1477 justice, district court of appeal judge, circuit judge, or  
1478 county court judge shall receive judicial retirement credit of 3  
1479 1/3 percent of average final compensation, and all other members  
1480 shall receive elected officer accrual value ~~retirement credit~~ of  
1481 3 percent of average final compensation, for each year of  
1482 creditable service in such class. Effective on or after July 1,  
1483 2011, a member of the Elected Officers' Class shall receive the  
1484 accrual value specified in s. 121.091(1)(a)4., for each year of

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1485 creditable service in such class.

1486 Section 9. Paragraph (a) of subsection (7) of section  
1487 121.053, Florida Statutes, is amended to read:

1488 121.053 Participation in the Elected Officers' Class for  
1489 retired members.—

1490 (7) A member who is elected or appointed to an elective  
1491 office and who is participating in the Deferred Retirement  
1492 Option Program is not subject to termination as defined in s.  
1493 121.021, or reemployment limitations as provided in s.  
1494 121.091(9), until the end of his or her current term of office  
1495 or, if the officer is consecutively elected or reelected to an  
1496 elective office eligible for coverage under the Florida  
1497 Retirement System, until he or she no longer holds an elective  
1498 office, as follows:

1499 (a) At the end of the 60-month DROP period:

1500 1. The officer's DROP account may not accrue additional  
1501 monthly benefits, but does continue to earn interest as provided  
1502 in s. 121.091(13). However, an officer whose DROP participation  
1503 begins on or after July 1, 2010, may not continue to earn such  
1504 interest.

1505 2. Retirement contributions, except for unfunded actuarial  
1506 liability and health insurance subsidy contributions required in  
1507 ss. 121.71(5) and 121.76, are not required of the employer of  
1508 the elected officer and additional retirement credit may not be  
1509 earned under the Florida Retirement System.

1510 Section 10. Paragraphs (b) and (j) of subsection (1),  
1511 paragraph (b) of subsection (3), paragraph (d) of subsection  
1512 (4), and paragraphs (d) and (e) of subsection (6) of section

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121.055, Florida Statutes, are amended, present paragraph (c) of subsection (3) of that section is redesignated as paragraph (d), and a new paragraph (c) is added to that subsection, to read:

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

(1)

(b)1. Except as provided in subparagraph 2., effective January 1, 1990, participation in the Senior Management Service Class is ~~shall be~~ compulsory for the president of each community college, the manager of each participating city or county, and all appointed district school superintendents. Effective January 1, 1994, additional positions may be designated for inclusion in the Senior Management Service Class of the Florida Retirement System, provided that:

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

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

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1541 c. Each position added to the class must be a managerial  
1542 or policymaking position filled by an employee who is not  
1543 subject to continuing contract and serves at the pleasure of the  
1544 local agency employer without civil service protection, and who:

1545 (I) Heads an organizational unit; or

1546 (II) Has responsibility to effect or recommend personnel,  
1547 budget, expenditure, or policy decisions in his or her areas of  
1548 responsibility.

1549 2. In lieu of participation in the Senior Management  
1550 Service Class, members of the Senior Management Service Class,  
1551 pursuant to the provisions of subparagraph 1., may withdraw from  
1552 the Florida Retirement System altogether. The decision to  
1553 withdraw from the Florida Retirement System is ~~shall be~~  
1554 irrevocable ~~for~~ as long as the employee holds the ~~such a~~  
1555 position. Any service creditable under the Senior Management  
1556 Service Class shall be retained after the member withdraws from  
1557 the Florida Retirement System; however, additional service  
1558 credit in the Senior Management Service Class may ~~shall~~ not be  
1559 earned after such withdrawal. Such members are ~~shall not be~~  
1560 eligible to participate in the Senior Management Service  
1561 Optional Annuity Program.

1562 3. Effective January 1, 2006, through June 30, 2006, an  
1563 employee who has withdrawn from the Florida Retirement System  
1564 under subparagraph 2. has one opportunity to elect to  
1565 participate in either the defined benefit program or the Public  
1566 Employee Optional Retirement Program of the Florida Retirement  
1567 System.

1568 a. If the employee elects to participate in the Public



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Employee Optional Retirement Program, membership shall be prospective, and the applicable provisions of s. 121.4501(4) shall govern the election.

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

(I) The cost for such credit shall be an amount representing the actuarial accrued liability for the affected period of service. The cost shall be calculated using the discount rate and other relevant actuarial assumptions that were used to value the Florida Retirement System defined benefit plan liabilities in the most recent actuarial valuation. The calculation must ~~shall~~ include any service already maintained under the defined benefit plan in addition to the period of withdrawal. The actuarial accrued liability attributable to any service already maintained under the defined benefit plan shall be applied as a credit to the total cost resulting from the calculation. The division must ~~shall~~ ensure that the transfer sum is prepared using a formula and methodology certified by an actuary.

(II) The employee must transfer a sum representing the net cost owed for the actuarial accrued liability in sub-sub-subparagraph (I) immediately following the time of such movement, determined assuming that attained service equals the sum of service in the defined benefit program and the period of

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1597 withdrawal.

1598 (j) Except as may otherwise be provided, a ~~any~~ member of  
1599 the Senior Management Service Class may purchase additional  
1600 retirement credit in such class for creditable service within  
1601 the purview of the Senior Management Service Class between  
1602 ~~retroactive to~~ February 1, 1987, and June 30, 2011, and may  
1603 upgrade retirement credit for such service, to the extent of 2  
1604 percent of the member's average monthly compensation as  
1605 specified in paragraph (4)(d) for such service. Contributions  
1606 for upgrading the additional Senior Management Service credit  
1607 pursuant to this paragraph shall be equal to the difference in  
1608 the employer and, if applicable, employee contributions paid and  
1609 the Senior Management Service Class contribution rate as a  
1610 percentage of gross salary in effect for the period being  
1611 claimed, plus interest thereon at the rate of 6.5 percent a  
1612 year, compounded annually until the date of payment. This  
1613 service credit may be purchased by the employer on behalf of the  
1614 member.

1615 (3)

1616 (b) The employer paying the salary of a member of the  
1617 Senior Management Service Class shall contribute an amount as  
1618 specified in this section or s. 121.71, as appropriate, which  
1619 shall constitute the entire employer retirement contribution  
1620 with respect to such member. The employer shall also withhold  
1621 one-half of the entire contribution of the member required for  
1622 social security coverage. Effective July 1, 2011, each member  
1623 shall pay employee contributions as specified in s. 121.71.

1624 (c) Upon termination of employment from all participating

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

(4)

(d)1. A member of the Senior Management Service Class shall receive retirement credit at the rate of 2 percent of average final compensation for each year of service in such class between February 1, 1987, and June 30, 2011 ~~after January 31, 1987.~~

2. Effective on or after July 1, 2011, a member of the Senior Management Service Class shall receive the accrual value specified in s. 121.091(1)(a)3., for each year of creditable service in such class.

(6)

(d) Contributions.—

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1653           1. Through June 30, 2001, each employer shall contribute  
1654 on behalf of each participant in the Senior Management Service  
1655 Optional Annuity Program an amount equal to the normal cost  
1656 portion of the employer retirement contribution which would be  
1657 required if the participant were a Senior Management Service  
1658 Class member of the Florida Retirement System pension plan  
1659 ~~defined benefit program~~, plus the portion of the contribution  
1660 rate required in s. 112.363(8) that would otherwise be assigned  
1661 to the Retiree Health Insurance Subsidy Trust Fund. Effective  
1662 July 1, 2001, each employer shall contribute on behalf of each  
1663 participant in the optional program an amount equal to 12.49  
1664 percent of the participant's gross monthly compensation. The  
1665 department shall deduct an amount approved by the Legislature to  
1666 provide for the administration of this program. The payment of  
1667 the contributions to the optional program which is required by  
1668 this subparagraph for each participant shall be made by the  
1669 employer to the department, which shall forward the  
1670 contributions to the designated company or companies contracting  
1671 for payment of benefits for the participant under the program.

1672           2. Each employer shall contribute on behalf of each  
1673 participant in the Senior Management Service Optional Annuity  
1674 Program an amount equal to the unfunded actuarial accrued  
1675 liability portion of the employer contribution which would be  
1676 required for members of the Senior Management Service Class in  
1677 the Florida Retirement System. This contribution shall be paid  
1678 to the department for transfer to the Florida Retirement System  
1679 Trust Fund.

1680           3. An Optional Annuity Program Trust Fund shall be

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established in the State Treasury and administered by the department to make payments to provider companies on behalf of the optional annuity program participants, and to transfer the unfunded liability portion of the state optional annuity program contributions to the Florida Retirement System Trust Fund.

4. Contributions required for social security by each employer and each participant, in the amount required for social security coverage as now or hereafter may be provided by the federal Social Security Act shall be maintained for each participant in the Senior Management Service retirement program and shall be in addition to the retirement contributions specified in this paragraph.

5. Each participant in the Senior Management Service Optional Annuity Program may contribute by way of salary reduction or deduction a percentage amount of the participant's gross compensation not to exceed the percentage amount contributed by the employer to the optional annuity program. Payment of the participant's contributions shall be made by the employer to the department, which shall forward the contributions to the designated company or companies contracting for payment of benefits for the participant under the program.

(e) Benefits.—

1. Benefits under the Senior Management Service Optional Annuity Program are payable only to participants in the program, or their beneficiaries as designated by the participant in the contract with the provider company, and must be paid by the designated company in accordance with the terms of the annuity contract applicable to the participant. A participant must be

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terminated from all employment relationships with Florida Retirement System employers as provided in s. 121.021(39) to begin receiving the employee-funded and employer-funded benefit. Benefits funded by employee and employer contributions are payable under the terms of the contract to the participant, his or her beneficiary, or his or her estate, in addition to:

a. A lump-sum payment to the beneficiary upon the death of the participant;

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

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

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

2. Under the Senior Management Service Optional Annuity Program, benefits are not payable for employee hardships, unforeseeable emergencies, loans, medical expenses, educational expenses, purchase of a principal residence, payments necessary

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1737 to prevent eviction or foreclosure on an employee's principal  
1738 residence, or any other reason prior to termination from all  
1739 employment relationships with participating employers, as  
1740 provided in s. 121.021(39).

1741 ~~3.2.~~ The benefits payable to any person under the Senior  
1742 Management Service Optional Annuity Program, and any  
1743 contribution accumulated under such program, are not subject to  
1744 assignment, execution, or attachment or to any legal process  
1745 whatsoever.

1746 ~~4.3.~~ Except as provided in subparagraph ~~5.~~ 4., a  
1747 participant who terminates employment and receives a  
1748 distribution, including a rollover or trustee-to-trustee  
1749 transfer, funded by employer contributions shall be deemed to be  
1750 retired from a state-administered retirement system if the  
1751 participant is subsequently employed with an employer that  
1752 participates in the Florida Retirement System.

1753 ~~5.4.~~ A participant who receives optional annuity program  
1754 benefits funded by employee and employer contributions as a  
1755 mandatory distribution of a de minimis account authorized by the  
1756 department is not considered a retiree.

1757  
1758 As used in this paragraph, a "de minimis account" means an  
1759 account with a provider company containing employee and employer  
1760 contributions and accumulated earnings of not more than \$5,000  
1761 made under this chapter.

1762 Section 11. Subsections (2) and (5) and paragraph (c) of  
1763 subsection (6) of section 121.071, Florida Statutes, are  
1764 amended, present paragraph (d) of subsection (6) is redesignated

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as paragraph (e), and a new paragraph (d) is added to that subsection, to read:

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

(2)(a) Effective January 1, 1975, or October 1, 1975, as applicable, and through June 30, 2011, each employer shall accomplish the contribution required by subsection (1) by a procedure in which no employee's gross salary shall be reduced. Effective July 1, 2011, each employee and employer shall pay retirement contributions as specified in s. 121.71.

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



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

(6)

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

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

Section 12. Paragraphs (b) and (c) of subsection (1) and subsection (2) of section 121.081, Florida Statutes, are amended to read:

121.081 Past service; prior service; contributions.—

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Conditions under which past service or prior service may be claimed and credited are:

(1)

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

(c) If an employer joins the Florida Retirement System prior to July 1, 2011, and does ~~Should the employer~~ not elect to provide past service for the member at the time of joining, then the member may claim and pay for the service as provided in ~~same, based on~~ paragraphs (a) and (b).

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

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1849 participant of the optional retirement program for the State  
1850 University System under s. 121.35 or the Senior Management  
1851 Service Optional Annuity Program under s. 121.055 may be used to  
1852 satisfy the reemployment requirement of 1 complete year of  
1853 creditable service. The member shall not be permitted to make  
1854 any contributions for prior service until after completion of  
1855 the 1 year of creditable service. If a member does not wish to  
1856 claim credit for all of his or her prior service, the service  
1857 the member claims must be the most recent period of service. The  
1858 required contributions for claiming the various types of prior  
1859 service are:

1860 (a) For prior service performed prior to the date the  
1861 system becomes noncontributory for the member and for which the  
1862 member had credit under one of the existing retirement systems  
1863 and received a refund of contributions upon termination of  
1864 employment, the member shall contribute 4 percent of all salary  
1865 received during the period being claimed, plus 4-percent  
1866 interest compounded annually from date of refund until July 1,  
1867 1975, and 6.5-percent interest compounded annually thereafter,  
1868 until full payment is made to the Retirement Trust Fund, and  
1869 shall receive credit in the Regular Class. A member who elected  
1870 to transfer to the Florida Retirement System from an existing  
1871 system may receive credit for prior service under the existing  
1872 system if he or she was eligible under the existing system to  
1873 claim the prior service at the time of the transfer.  
1874 Contributions for such prior service shall be determined by the  
1875 applicable provisions of the system under which the prior  
1876 service is claimed and shall be paid by the member, with

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1877 matching contributions paid by the employer at the time the  
1878 service was performed. Effective July 1, 1978, the account of a  
1879 person who terminated under s. 238.05(3) may not be charged  
1880 interest for contributions that remained on deposit in the  
1881 Annuity Savings Trust Fund established under chapter 238, upon  
1882 retirement under this chapter or chapter 238.

1883 (b) For prior service performed prior to the date the  
1884 system becomes noncontributory for the member and for which the  
1885 member had credit under the Florida Retirement System and  
1886 received a refund of contributions upon termination of  
1887 employment, the member shall contribute at the rate that was  
1888 required of him or her during the period of service being  
1889 claimed, on all salary received during such period, plus 4-  
1890 percent interest compounded annually from date of refund until  
1891 July 1, 1975, and 6.5-percent interest compounded annually  
1892 thereafter, until the full payment is made to the Retirement  
1893 Trust Fund, and shall receive credit in the membership class in  
1894 which the member participated during the period claimed.

1895 (c) For prior service as defined in s. 121.021(19)(b) and  
1896 (c) during which no contributions were made because the member  
1897 did not participate in a retirement system, the member shall  
1898 contribute 14.38 percent of all salary received during such  
1899 period or 14.38 percent of \$100 per month during such period,  
1900 whichever is greater, plus 4-percent interest compounded  
1901 annually from the first year of service claimed until July 1,  
1902 1975, and 6.5-percent interest compounded annually thereafter,  
1903 until full payment is made to the Retirement Trust Fund, and  
1904 shall receive credit in the Regular Class.

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

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

(f) For prior service performed on or after July 1, 2011,

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1933 for which the member had credit under the Florida Retirement  
1934 System and received a refund of contributions upon termination  
1935 of employment for 3 calendar months, the member shall contribute  
1936 at the rate that was required of him or her during the period of  
1937 service being claimed, plus 6.5 percent interest, compounded  
1938 annually on each June 30 from date of refund until the full  
1939 payment is made to the Florida Retirement System Trust Fund, and  
1940 shall receive credit in the membership class in which the member  
1941 participated during the period claimed.

1942 (g)~~(f)~~ The employer may not ~~be required to~~ make  
1943 contributions for prior service credit for any member, except  
1944 that the employer shall pay the employer portion of  
1945 contributions for any legislator who elects to withdraw from the  
1946 Florida Retirement System and later rejoins the system and pays  
1947 any employee contributions required in accordance with s.  
1948 121.052(3)(d).

1949 Section 13. Subsection (1), paragraph (j) of subsection  
1950 (4), paragraphs (a) and (c) of subsection (5), paragraph (d) of  
1951 subsection (9), and paragraph (a) of subsection (13) of section  
1952 121.091, Florida Statutes, are amended, and paragraph (1) is  
1953 added to subsection (13) of that section, to read:

1954 121.091 Benefits payable under the system.—Benefits may  
1955 not be paid under this section unless the member has terminated  
1956 employment as provided in s. 121.021(39)(a) or begun  
1957 participation in the Deferred Retirement Option Program as  
1958 provided in subsection (13), and a proper application has been  
1959 filed in the manner prescribed by the department. The department  
1960 may cancel an application for retirement benefits when the

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member or beneficiary fails to timely provide the information and documents required by this chapter and the department's rules. The department shall adopt rules establishing procedures for application for retirement benefits and for the cancellation of such application when the required information or documents are not received.

(1) NORMAL RETIREMENT BENEFIT.—Upon attaining his or her normal retirement date, the member, upon application to the administrator, shall receive a monthly benefit which shall begin to accrue on the first day of the month of retirement and be payable on the last day of that month and each month thereafter during his or her lifetime. The normal retirement benefit, including any past or additional retirement credit, may not exceed 100 percent of the average final compensation. The amount of monthly benefit shall be calculated as the product of A and B, subject to the adjustment of C, if applicable, as set forth below:

(a)1. For creditable years of Regular Class service, A is 1.60 percent of the member's average final compensation, up to the member's normal retirement date. Upon completion of the first year after the normal retirement date, A is 1.63 percent of the member's average final compensation. Following the second year after the normal retirement date, A is 1.65 percent of the member's average final compensation. Following the third year after the normal retirement date, and for subsequent years, A is 1.68 percent of the member's average final compensation.

2. For creditable years of special risk service, A is:

a. Two percent of the member's average final compensation

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1989 for all creditable years prior to October 1, 1974.+  
 1990       b. Three percent of the member's average final  
 1991 compensation for all creditable years after September 30, 1974,  
 1992 and before October 1, 1978.+  
 1993       c. Two percent of the member's average final compensation  
 1994 for all creditable years after September 30, 1978, and before  
 1995 January 1, 1989.+  
 1996       d. Two and two-tenths percent of the member's final  
 1997 monthly compensation for all creditable years after December 31,  
 1998 1988, and before January 1, 1990.+  
 1999       e. Two and four-tenths percent of the member's average  
 2000 final compensation for all creditable years after December 31,  
 2001 1989, and before January 1, 1991.+  
 2002       f. Two and six-tenths percent of the member's average  
 2003 final compensation for all creditable years after December 31,  
 2004 1990, and before January 1, 1992.+  
 2005       g. Two and eight-tenths percent of the member's average  
 2006 final compensation for all creditable years after December 31,  
 2007 1991, and before January 1, 1993.+  
 2008       h. Three percent of the member's average final  
 2009 compensation for all creditable years after December 31, 1992.+  
 2010 ~~and~~  
 2011       i. Three percent of the member's average final  
 2012 compensation for all creditable years of service after September  
 2013 30, 1978, and before January 1, 1993, for any special risk  
 2014 member who retires after July 1, 2000, or any member of the  
 2015 Special Risk Administrative Support Class entitled to retain the  
 2016 special risk normal retirement date who was a member of the



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Special Risk Class during the time period and who retires after July 1, 2000.

3.a. For creditable years of Senior Management Service Class service after January 31, 1987, and before July 1, 2011, A is 2 percent.

b. For creditable years of Senior Management Service Class service after June 30, 2011, A is equal to the percentage provided in subparagraph 1. of the member's average final compensation.~~†~~

4.a. For creditable years of Elected Officers' Class service before July 1, 2011, as a Supreme Court Justice, district court of appeal judge, circuit judge, or county court judge, A is 3 1/3 percent of the member's average final compensation, and for all other creditable service before July 1, 2011, in such class, A is 3 percent of average final compensation.

b. For creditable years of Elected Officers' Class service after June 30, 2011, A is equal to the percentage provided in subparagraph 1. of the member's average final compensation.~~†~~

(b) B is the number of the member's years and any fractional part of a year of creditable service earned subsequent to November 30, 1970.~~† and~~

(c) C is the normal retirement benefit credit brought forward as of November 30, 1970, by a former member of an existing system. Such normal retirement benefit credit shall be determined as the product of X and Y when X is the percentage of average final compensation which the member would have been eligible to receive if the member had attained his or her normal

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retirement date as of November 30, 1970, all in accordance with the existing system under which the member is covered on November 30, 1970, and Y is average final compensation as defined in s. 121.021(24). However, any member of an existing retirement system who is eligible to retire and who does retire, become disabled, or die prior to April 15, 1971, may have his or her retirement benefits calculated on the basis of the best 5 of the last 10 years of service.

(d) A member's average final compensation shall be determined by formula to obtain the coverage for the 5 highest fiscal years' salaries, calculated as provided by rule.

(4) DISABILITY RETIREMENT BENEFIT.—

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

1.a. If a member is a justice of the Supreme Court, judge of a district court of appeal, circuit judge, or judge of a county court who has served for 6 years or more as an elected constitutional judicial officer, including service as a judicial officer in any court abolished pursuant to Art. V of the State Constitution, and who is retired for disability by order of the Supreme Court upon recommendation of the Judicial Qualifications Commission pursuant to the provisions of Art. V of the State Constitution, the member's Option 1 monthly benefit as provided in subparagraph (6)(a)1. may ~~shall~~ not be less than two-thirds of his or her monthly compensation as of the member's disability retirement date. Such a member may alternatively elect to receive a disability retirement benefit under any other option as provided in paragraph (6)(a). This sub-subparagraph applies

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to any member retiring prior to July 1, 2011.

b. Effective July 1, 2011, and applicable to any member retiring on or after July 1, 2011, if a member is a justice of the Supreme Court, judge of a district court of appeal, circuit judge, or judge of a county court who has served for 6 years or more as an elected constitutional judicial officer, including service as a judicial officer in any court abolished pursuant to Art. V of the State Constitution, and who is retired for disability by order of the Supreme Court upon recommendation of the Judicial Qualifications Commission pursuant to the provisions of Art. V of the State Constitution, the member's Option 1 monthly benefit as provided in subparagraph (6)(a)1. may not be less than one-third of his or her monthly compensation as of the member's disability retirement date. Such a member may alternatively elect to receive a disability retirement benefit under any other option as provided in paragraph (6)(a).

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

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

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

(a) A member whose employment is terminated for any reason other than death or retirement prior to becoming vested is entitled to the return of his or her accumulated contributions as of the date of termination. Effective July 1, 2011, upon termination of employment from all participating employers for 3 calendar months for any reason other than retirement pursuant to s. 121.021(39)(c), a member may receive a refund of all contributions he or she has made to the pension plan, subject to the restrictions otherwise provided in this chapter. Partial refunds are not permitted. The refund shall not include any interest earnings on the contributions for a member of the pension plan. Employer contributions made on behalf of the member are not refundable. A member may not receive a refund of employee contributions if a pending or an approved qualified domestic relations order is filed against his or her retirement account. By obtaining a refund of contributions, a member waives all rights under the Florida Retirement System and the health

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2129 insurance subsidy to the service credit represented by the  
2130 refunded contributions, except the right to purchase his or her  
2131 prior service credit in accordance with s. 121.081(2).

2132 (c) In lieu of the deferred monthly benefit provided in  
2133 paragraph (b), the terminated member may elect to receive a  
2134 lump-sum amount equal to his or her accumulated contributions as  
2135 of the date of termination. Effective July 1, 2011, upon  
2136 termination of employment from all participating employers for 3  
2137 calendar months for any reason other than retirement pursuant to  
2138 s. 121.021(39)(c), a member may receive a refund of all  
2139 contributions he or she has made to the pension plan, subject to  
2140 the restrictions otherwise provided in this chapter. Partial  
2141 refunds are not permitted. The refund shall not include any  
2142 interest earnings on the contributions for a member of the  
2143 pension plan. Employer contributions made on behalf of the  
2144 member are not refundable. A member may not receive a refund of  
2145 employee contributions if a pending or an approved qualified  
2146 domestic relations order is filed against his or her retirement  
2147 account. By obtaining a refund of contributions, a member waives  
2148 all rights under the Florida Retirement System and the health  
2149 insurance subsidy to the service credit represented by the  
2150 refunded contributions, except the right to purchase his or her  
2151 prior service credit in accordance with s. 121.081(2).

2152 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

2153 (d) The provisions of this subsection apply to retirees,  
2154 as defined in s. 121.4501(2), of the investment plan ~~Public~~  
2155 ~~Employee Optional Retirement Program~~, subject to the following  
2156 conditions:

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2157        1. A retiree ~~The retirees~~ may not be reemployed with an  
2158 employer participating in the Florida Retirement System until  
2159 such person has been retired for 6 calendar months.

2160        2. A retiree employed in violation of this subsection and  
2161 an employer that employs or appoints such person are jointly and  
2162 severally liable for reimbursement of any benefits paid to the  
2163 retirement trust fund from which the benefits were paid,  
2164 including the Florida Retirement System Trust Fund and the  
2165 Florida Retirement System Investment Plan ~~Public Employee~~  
2166 ~~Optional Retirement Program~~ Trust Fund, as appropriate. The  
2167 employer must have a written statement from the retiree that he  
2168 or she is not retired from a state-administered retirement  
2169 system.

2170        (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and  
2171 subject to this section, the Deferred Retirement Option Program,  
2172 hereinafter referred to as DROP, is a program under which an  
2173 eligible member of the Florida Retirement System may elect to  
2174 participate, deferring receipt of retirement benefits while  
2175 continuing employment with his or her Florida Retirement System  
2176 employer. The deferred monthly benefits shall accrue in the  
2177 Florida Retirement System on behalf of the participant, plus  
2178 interest compounded monthly, for the specified period of the  
2179 DROP participation, as provided in paragraph (c). Upon  
2180 termination of employment, the participant shall receive the  
2181 total DROP benefits and begin to receive the previously  
2182 determined normal retirement benefits. Participation in the DROP  
2183 does not guarantee employment for the specified period of DROP.  
2184 Participation in DROP by an eligible member beyond the initial

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60-month period as authorized in this subsection shall be on an annual contractual basis for all participants.

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

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

2. Except as provided in subparagraph 6., election to participate is made within 12 months immediately following the date on which the member first reaches normal retirement date, or, for a member who reaches normal retirement date based on service before he or she reaches age 62, or age 55 for Special Risk Class members, election to participate may be deferred to the 12 months immediately following the date the member attains age 57, or age 52 for Special Risk Class members. A member who delays DROP participation during the 12-month period immediately following his or her maximum DROP deferral date, except as provided in subparagraph 6., loses a month of DROP participation for each month delayed. A member who fails to make an election

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2213 within the 12-month limitation period forfeits all rights to  
2214 participate in DROP. The member shall advise his or her employer  
2215 and the division in writing of the date DROP begins. The  
2216 beginning date may be subsequent to the 12-month election period  
2217 but must be within the original 60-month participation period  
2218 provided in subparagraph (b)1. When establishing eligibility of  
2219 the member to participate in DROP, the member may elect to  
2220 include or exclude any optional service credit purchased by the  
2221 member from the total service used to establish the normal  
2222 retirement date. A member who has dual normal retirement dates  
2223 is eligible to elect to participate in DROP after attaining  
2224 normal retirement date in either class.

2225 3. The employer of a member electing to participate in  
2226 DROP, or employers if dually employed, shall acknowledge in  
2227 writing to the division the date the member's participation in  
2228 DROP begins and the date the member's employment and DROP  
2229 participation will terminate.

2230 4. Simultaneous employment of a participant by additional  
2231 Florida Retirement System employers subsequent to the  
2232 commencement of participation in DROP is permissible if such  
2233 employers acknowledge in writing a DROP termination date no  
2234 later than the participant's existing termination date or the  
2235 maximum participation period provided in subparagraph (b)1.

2236 5. A DROP participant may change employers while  
2237 participating in DROP, subject to the following:

2238 a. A change of employment must take place without a break  
2239 in service so that the member receives salary for each month of  
2240 continuous DROP participation. If a member receives no salary



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during a month, DROP participation shall cease unless the employer verifies a continuation of the employment relationship for such participant pursuant to s. 121.021(39)(b).

b. Such participant and new employer shall notify the division of the identity of the new employer on forms required by the division.

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

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

7. The effective date of DROP participation of a DROP participant is prior to July 1, 2011.

(1) Closure of program to new participants.-Effective July

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1, 2011, DROP is closed to new participants. Only members whose  
DROP effective date is prior to July 1, 2011, may participate in  
DROP.

Section 14. Section 121.101, Florida Statutes, is amended  
to read:

121.101 Cost-of-living adjustment of benefits.—

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

(2) As used in this section, "initial benefit" means the  
first monthly benefit payable to a retiree or beneficiary in  
accordance with the laws governing the determination of such  
benefit at the time of retirement or earlier death.

(3) Commencing July 1, 1987, the benefit of each retiree  
and annuitant retiring prior to July 1, 2011, shall be adjusted  
on each July 1 thereafter, as follows:

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

(b) For those retirees and annuitants who have received a  
cost-of-living adjustment under this subsection ~~section~~, the  
adjusted monthly benefit shall be the amount of the monthly  
benefit being received on June 30 immediately preceding the

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adjustment date plus an amount equal to 3 percent of this benefit.

(4) For members retiring effective on or after July 1, 2011, the benefit of each retiree and annuitant shall be adjusted on each July 1 thereafter, as follows:

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

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

(c) The department shall calculate a cost-of-living factor for each retiree and beneficiary retiring after June 30, 2011. This factor equals the product of 3 percent multiplied by the quotient of the sum of the member's service credit earned for service prior to July 1, 2011, divided by the sum of the member's total service credit earned.

(5)~~(4)~~ In no event shall a retiree's or annuitant's monthly retirement benefit be reduced, by the application of

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2325 this section, below the benefit he or she was receiving as of  
2326 July 1, 1970, or at the date of retirement, if later, nor shall  
2327 the benefit be reduced below the minimum monthly benefit  
2328 provided him or her under s. 112.362.

2329 (6)~~(5)~~ The initial benefit of a retiree who elected an  
2330 optional form of benefit payment which provided for a percentage  
2331 of the benefit to be continued to a beneficiary after his or her  
2332 death shall be reduced at the death of the retiree by  
2333 application of the stated percentage.

2334 (7)~~(6)~~ The funds necessary to pay for the cost-of-living  
2335 adjustment provided by this section are hereby annually  
2336 appropriated from the System Trust Fund.

2337 (8)~~(7)~~ The purpose of this subsection is to establish a  
2338 supplemental cost-of-living adjustment for certain retirees and  
2339 beneficiaries who receive monthly retirement benefits under the  
2340 provisions of this chapter and the existing systems consolidated  
2341 therein, s. 112.05 for certain state officers and employees, and  
2342 s. 238.171 for certain elderly incapacitated teachers.

2343 (a) On July 1, 1996, each such retiree retiring prior to  
2344 July 1, 1976, and each annuitant of such a retiree, who had 25  
2345 or more years of service, who is neither receiving nor eligible  
2346 to receive social security benefits, and whose monthly benefit  
2347 as of July 1, 1996, is less than \$1,000, shall, upon application  
2348 to the administrator, receive a supplemental cost-of-living  
2349 adjustment. Such supplemental cost-of-living adjustment shall be  
2350 applied by adjusting the retiree's or annuitant's monthly  
2351 benefit to an amount equal to the sum of the monthly benefit  
2352 being received on July 1, 1996, plus a percentage of the July 1,

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1996, benefit. This percentage shall equal the product of 1 percent multiplied by the number of complete years that have elapsed between the member's date of retirement and July 1, 1996. However, if the supplemental cost-of-living adjustment plus the July 1, 1996, monthly benefit would exceed \$1,000, the adjustment shall be reduced to an amount which would result in a monthly benefit equal to \$1,000.

(b) Application for the supplemental cost-of-living adjustment provided by this subsection shall include certification by the retiree or annuitant that he or she is not receiving, and is not eligible to receive, social security benefits and shall include written authorization for the department to have access to information from the Social Security Administration concerning his or her entitlement to, or eligibility for, social security benefits. Such supplemental cost-of-living adjustment shall not be paid unless and until the application requirements of this paragraph are met.

Section 15. Subsection (1) of section 121.121, Florida Statutes, is amended to read:

121.121 Authorized leaves of absence.—

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

(a) The member has completed a minimum of 6 years of creditable service, excluding periods for which a leave of absence was authorized;

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

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2381 (c) The member returns to active employment performing  
2382 service with a Florida Retirement System employer in a regularly  
2383 established position immediately upon termination of the leave  
2384 of absence and remains on the employer's payroll for 1 calendar  
2385 month, except that a member who retires on disability while on a  
2386 medical leave of absence may ~~shall~~ not be required to return to  
2387 employment. A member whose work year is less than 12 months and  
2388 whose leave of absence terminates between school years is  
2389 eligible to receive credit for the leave of absence if ~~as long~~  
2390 ~~as~~ he or she returns to the employment of his or her employer at  
2391 the beginning of the next school year and remains on the  
2392 employer's payroll for 1 calendar month; and

2393 (d) The member makes the required contributions for  
2394 service credit during the leave of absence, which shall be 8  
2395 percent until January 1, 1975, and 9 percent thereafter of his  
2396 or her rate of monthly compensation in effect immediately prior  
2397 to the commencement of such leave for each month of such period,  
2398 plus 4 percent interest until July 1, 1975, and 6.5 percent  
2399 interest thereafter on such contributions, compounded annually  
2400 each June 30 from the due date of the contribution to date of  
2401 payment. Effective July 1, 1980, any leave of absence purchased  
2402 pursuant to this section shall be at the contribution rates  
2403 specified in s. 121.071 or s. 121.71 in effect at the time the  
2404 leave is granted for the class of membership from which the  
2405 leave of absence was granted; however, any member who purchased  
2406 leave-of-absence credit prior to July 1, 1980, for a leave of  
2407 absence from a position in a class other than the regular  
2408 membership class, may pay the appropriate additional

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contributions plus compound interest thereon and receive creditable service for such leave of absence in the membership class from which the member was granted the leave of absence.

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

Section 16. Section 121.125, Florida Statutes, is amended to read:

121.125 Credit for workers' compensation payment periods.—  
A member of the retirement system created by this chapter who has been eligible or becomes eligible to receive workers' compensation payments for an injury or illness occurring during his or her employment while a member of any state retirement system shall, upon return to active employment with a covered employer for 1 calendar month or upon approval for disability retirement in accordance with s. 121.091(4), receive full retirement credit for the period prior to such return to active employment or disability retirement for which the workers' compensation payments were received. However, a ~~no~~ member may not receive retirement credit for any such period occurring after the earlier of the date of maximum medical improvement as defined in s. 440.02 or the date termination has occurred as defined in s. 121.021(39). The employer of record at the time of the worker's compensation injury or illness shall make the required employee and employer retirement contributions based on

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the member's rate of monthly compensation immediately prior to his or her receiving workers' compensation payments for retirement credit received by the member. The employer of record at the time of the workers' compensation injury or illness shall be assessed by the division a penalty of 1 percent of the contributions on all contributions not paid on the first payroll report after the member becomes eligible to receive credit. This delinquent assessment may not be waived.

Section 17. Section 121.161, Florida Statutes, is reenacted to read:

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

Section 18. Paragraphs (g) and (i) of subsection (3), paragraph (a) of subsection (4), and subsection (5) of section 121.35, Florida Statutes, are amended to read:

121.35 Optional retirement program for the State University System.—

(3) ELECTION OF OPTIONAL PROGRAM.—

(g) An eligible employee who is a member of the Florida Retirement System at the time of election to participate in the optional retirement program shall retain all retirement service credit earned under the Florida Retirement System, at the rate earned. ~~No~~ Additional service credit in the Florida Retirement System may not shall be earned while the employee participates in the optional program, and ~~nor shall~~ the employee is not be eligible for disability retirement under the Florida Retirement



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2465 System. An eligible employee may transfer from the Florida  
2466 Retirement System to his or her accounts under the State  
2467 University System Optional Retirement Program a sum representing  
2468 the present value of the employee's accumulated benefit  
2469 obligation under ~~the defined benefit program of the Florida~~  
2470 Retirement System pension plan for any service credit accrued  
2471 from the employee's first eligible transfer date to the optional  
2472 retirement program through the actual date of such transfer, if  
2473 such service credit was earned ~~in the period~~ from July 1, 1984,  
2474 through December 31, 1992. The present value of the employee's  
2475 accumulated benefit obligation shall be calculated as described  
2476 in s. 121.4501(3)~~(c)2~~. Upon ~~such~~ transfer, all ~~such~~ service  
2477 credit ~~previously~~ earned under the ~~defined benefit program of~~  
2478 ~~the Florida Retirement System~~ pension plan during this period is  
2479 ~~shall be~~ nullified for purposes of entitlement to a future  
2480 benefit under the ~~defined benefit program of the Florida~~  
2481 Retirement System pension plan.

2482 (i) Effective January 1, 2008, through December 31, 2008,  
2483 except for an employee who is a mandatory participant of the  
2484 State University System Optional Retirement Program, an employee  
2485 who has elected to participate in the State University System  
2486 Optional Retirement Program shall have one opportunity, at the  
2487 employee's discretion, to choose to transfer from this program  
2488 to the ~~defined benefit program of the Florida Retirement System~~  
2489 pension plan or to the investment plan ~~Public Employee Optional~~  
2490 ~~Retirement Program~~, subject to the terms of the applicable  
2491 contracts of the State University System Optional Retirement  
2492 Program.

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2493           1. If the employee chooses to move to the investment plan  
2494 ~~Public Employee Optional Retirement Program~~, any contributions,  
2495 interest, and earnings creditable to the employee under the  
2496 State University System Optional Retirement Program must ~~shall~~  
2497 be retained by the employee in the State University System  
2498 Optional Retirement Program, and the applicable provisions of s.  
2499 121.4501(4) shall govern the election.

2500           2. If the employee chooses to move to the pension plan  
2501 ~~defined benefit program~~ of the Florida Retirement System, the  
2502 employee shall receive service credit equal to his or her years  
2503 of service under the State University System Optional Retirement  
2504 Program.

2505           a. The cost for such credit must be in ~~shall be~~ an amount  
2506 representing the actuarial accrued liability for the affected  
2507 period of service. The cost must ~~shall~~ be calculated using the  
2508 discount rate and other relevant actuarial assumptions that were  
2509 used to value the Florida Retirement System pension ~~defined~~  
2510 ~~benefit~~ plan liabilities in the most recent actuarial valuation.  
2511 The calculation must ~~shall~~ include any service already  
2512 maintained under the pension ~~defined benefit~~ plan in addition to  
2513 the years under the State University System Optional Retirement  
2514 Program. The actuarial accrued liability of any service already  
2515 maintained under the pension ~~defined benefit~~ plan must ~~shall~~ be  
2516 applied as a credit to total cost resulting from the  
2517 calculation. The division must ~~shall~~ ensure that the transfer  
2518 sum is prepared using a formula and methodology certified by an  
2519 enrolled actuary.

2520           b. The employee must transfer from his or her State

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2521 University System Optional Retirement Program account, and from  
2522 other employee moneys as necessary, a sum representing the  
2523 actuarial accrued liability immediately following the time of  
2524 such movement, determined assuming that attained service equals  
2525 the sum of service in the pension plan ~~defined benefit program~~  
2526 and service in the State University System Optional Retirement  
2527 Program.

2528 (4) CONTRIBUTIONS.—

2529 (a) Through June 30, 2001, each employer shall contribute  
2530 on behalf of each participant in the optional retirement program  
2531 an amount equal to the normal cost portion of the employer  
2532 retirement contribution which would be required if the  
2533 participant were a regular member of the Florida Retirement  
2534 System pension plan ~~defined benefit program~~, plus the portion of  
2535 the contribution rate required in s. 112.363(8) that would  
2536 otherwise be assigned to the Retiree Health Insurance Subsidy  
2537 Trust Fund. Effective July 1, 2001, each employer shall  
2538 contribute on behalf of each participant in the optional program  
2539 an amount equal to 10.43 percent of the participant's gross  
2540 monthly compensation. The department shall deduct an amount  
2541 approved by the Legislature to provide for the administration of  
2542 this program. The payment of the contributions to the optional  
2543 program which is required by this paragraph for each participant  
2544 shall be made by the employer to the department, which shall  
2545 forward the contributions to the designated company or companies  
2546 contracting for payment of benefits for the participant under  
2547 the program. However, such contributions paid on behalf of an  
2548 employee described in paragraph (3)(c) shall not be forwarded to

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a company and shall not begin to accrue interest until the employee has executed a contract and notified the department.

(5) BENEFITS.—

(a) Benefits are payable under the optional retirement program only to vested participants in the program, or their beneficiaries as designated by the participant in the contract with a provider company, and such benefits shall be paid only by the designated company in accordance with s. 403(b) of the Internal Revenue Code and the terms of the annuity contract or contracts applicable to the participant. Benefits accrue in individual accounts that are participant-directed, portable, and funded by employer contributions and the earnings thereon. The participant must be terminated for 3 calendar months from all employment relationships with all Florida Retirement System employers, as provided in s. 121.021(39), to begin receiving the employer-funded benefit. Benefits funded by employer contributions are payable in accordance with the following terms and conditions:

1. Benefits shall be paid only to a participant, to his or her beneficiaries, or to his or her estate, as designated by the participant.

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

3. In the event of a participant's death, moneys accumulated by, or on behalf of, the participant, less withholding taxes remitted to the Internal Revenue Service, if any, shall be distributed to the participant's designated

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beneficiary or beneficiaries, or to the participant's estate, as if the participant retired on the date of death, as provided in paragraph (d) ~~(e)~~. No other death benefits are available to survivors of participants under the optional retirement program except for such benefits, or coverage for such benefits, as are separately afforded by the employer, at the employer's discretion.

(b) Under the optional retirement program, benefits are not payable for employee hardships, unforeseeable emergencies, loans, medical expenses, educational expenses, purchase of a principal residence, payments necessary to prevent eviction or foreclosure on an employee's principal residence, or any other reason prior to termination from all employment relationships with participating employers, as provided in s. 121.021(39).

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

1. A lump-sum distribution to the participant;
2. A lump-sum direct rollover distribution whereby all accrued benefits, plus interest and investment earnings, are paid from the participant's account directly to an eligible retirement plan, as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of the participant;
3. Periodic distributions;
4. A partial lump-sum payment whereby a portion of the accrued benefit is paid to the participant and the remaining amount is transferred to an eligible retirement plan, as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of

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the participant; or

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

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

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

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

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

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

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

(e)~~(d)~~ The benefits payable to any person under the optional retirement program, and any contribution accumulated

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under such program, shall not be subject to assignment, execution, or attachment or to any legal process whatsoever.

(f)~~(e)~~ A participant who chooses to receive his or her benefits must be terminated for 3 calendar months to be eligible to receive benefits funded by employer contributions. A participant ~~upon termination as defined in s. 121.021~~ must notify the provider company of the date he or she wishes benefits funded by required employee and employer contributions to begin and must meet termination as defined in s. 121.021 after the initial benefit payment or distribution. Benefits may be deferred until the participant chooses to make such application.

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

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

Section 19. Section 121.4501, Florida Statutes, is amended to read:

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

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(1) The Trustees of the State Board of Administration shall establish a ~~an optional~~ defined contribution ~~retirement~~ program called the "Florida Retirement System Investment Plan" or "investment plan" for members of the Florida Retirement System under which retirement benefits will be provided for eligible employees who elect to participate in the program. The ~~retirement~~ benefits ~~to be provided for or on behalf of participants in such optional retirement program~~ shall be provided through member-directed ~~employee-directed~~ investments, in accordance with s. 401(a) of the Internal Revenue Code and ~~its~~ related regulations. The employer and members ~~employers~~ shall make contributions ~~contribute~~, as provided in this section and ~~ss. 121.571 and 121.71~~, to the Florida Retirement System Investment Plan ~~Public Employee Optional Retirement Program~~ Trust Fund toward the funding of ~~such optional~~ benefits.

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

(a) "Approved provider" or "provider" means a private sector company that is selected and approved by the state board to offer one or more investment products or services to the investment plan ~~optional retirement program~~. The term includes a bundled provider that offers members ~~participants~~ a range of individually allocated or unallocated investment products and may offer a range of administrative and customer services, which may include accounting and administration of individual member ~~participant~~ benefits and contributions; individual member ~~participant~~ recordkeeping; asset purchase, control, and safekeeping; direct execution of the member's ~~participant's~~ instructions as to asset and contribution allocation;



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2689 calculation of daily net asset values; direct access to member  
2690 ~~participant~~ account information; periodic reporting to members  
2691 ~~participants~~, at least quarterly, on account balances and  
2692 transactions; guidance, advice, and allocation services directly  
2693 relating to the provider's own investment options or products,  
2694 but only if the bundled provider complies with the standard of  
2695 care of s. 404(a)(1)(A-B) of the Employee Retirement Income  
2696 Security Act of 1974 (ERISA), and if providing such guidance,  
2697 advice, or allocation services does not constitute a prohibited  
2698 transaction under s. 4975(c)(1) of the Internal Revenue Code or  
2699 s. 406 of ERISA, notwithstanding that such prohibited  
2700 transaction provisions do not apply to the ~~optional~~ retirement  
2701 program; a broad array of distribution options; asset  
2702 allocation; and retirement counseling and education. Private  
2703 sector companies include investment management companies,  
2704 insurance companies, depositories, and mutual fund companies.

2705 (b) "Average monthly compensation" means one-twelfth of  
2706 average final compensation as defined in s. 121.021.

2707 (c) "Covered employment" means employment in a regularly  
2708 established position as defined in s. 121.021.

2709 (d)~~(e)~~ "Division" means the Division of Retirement within  
2710 the department.

2711 (e)~~(f)~~ "Electronic means" means by telephone, if the  
2712 required information is received on a recorded line, or through  
2713 Internet access, if the required information is captured online.

2714 (f)~~(g)~~ "Eligible employee" means an officer or employee,  
2715 as defined in s. 121.021, who:

2716 1. Is a member of, or is eligible for membership in, the

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Florida Retirement System, including any renewed member of the Florida Retirement System initially enrolled before July 1, 2010; or

2. Participates in, or is eligible to participate in, the Senior Management Service Optional Annuity Program as established under s. 121.055(6), the State Community College System Optional Retirement Program as established under s. 121.051(2)(c), or the State University System Optional Retirement Program established under s. 121.35.

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

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

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

(i)~~(d)~~ "Florida Retirement System Pension Plan" or "pension plan" means the defined benefit program of the Florida Retirement System administered under part I of this chapter. ~~"Defined benefit program" means the defined benefit program of the Florida Retirement System administered under part I of this chapter.~~

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

(k) "Participant contributions," "member contributions," or "employee contributions" mean the sum of all amounts deducted from the salary of a member by his or her employer in accordance with s. 121.71(2) and credited to his or her individual account in the investment plan, plus any earnings on such amounts and any contributions specified in paragraph (5)(e).

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

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

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

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

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2773 ~~Retirement System.~~

2774        (a) ~~(b)~~ An eligible employee who is employed in a regularly  
2775 established position by a state employer on June 1, 2002; by a  
2776 district school board employer on September 1, 2002; or by a  
2777 local employer on December 1, 2002, and who is a member of the  
2778 pension plan defined benefit retirement program of the Florida  
2779 Retirement System at the time of his or her election to  
2780 participate in the investment plan ~~Public Employee Optional~~  
2781 ~~Retirement Program~~ shall retain all retirement service credit  
2782 earned under the pension plan defined benefit retirement program  
2783 ~~of the Florida Retirement System~~ as credited under the system  
2784 and is ~~shall be~~ entitled to a deferred benefit upon termination,  
2785 ~~if eligible under the system.~~ However, election to participate  
2786 in the investment plan ~~Public Employee Optional Retirement~~  
2787 ~~Program~~ terminates the active membership of the employee in the  
2788 pension plan defined benefit program of the Florida Retirement  
2789 System, and the service of a member participant in the  
2790 investment plan is ~~Public Employee Optional Retirement Program~~  
2791 ~~shall not be~~ creditable under the pension plan defined benefit  
2792 retirement program of the Florida Retirement System for purposes  
2793 of benefit accrual but is creditable ~~shall be credited~~ for  
2794 purposes of vesting.

2795        (b) ~~(c)~~1. Notwithstanding paragraph (a), an ~~(b)~~, each  
2796 eligible employee who elects to participate in the investment  
2797 plan ~~Public Employee Optional Retirement Program~~ and establishes  
2798 one or more individual member participant accounts ~~under the~~  
2799 ~~optional program~~ may elect to transfer to the investment plan  
2800 ~~optional program~~ a sum representing the present value of the

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2801 employee's accumulated benefit obligation under the pension plan  
2802 ~~defined benefit retirement program of the Florida Retirement~~  
2803 ~~System~~. Upon ~~such~~ transfer, all service credit ~~previously~~ earned  
2804 under the pension plan ~~is defined benefit program of the Florida~~  
2805 ~~Retirement System shall be~~ nullified for purposes of entitlement  
2806 to a future benefit under the pension plan ~~defined benefit~~  
2807 ~~program of the Florida Retirement System~~. A member may not  
2808 ~~transfer participant is precluded from transferring the~~  
2809 accumulated benefit obligation balance from the pension plan  
2810 ~~after the time defined benefit program upon the expiration of~~  
2811 ~~the period for enrolling afforded to enroll in the investment~~  
2812 ~~plan has expired optional program~~.

2813 1.2. For purposes of this subsection, the present value of  
2814 the member's accumulated benefit obligation is based upon the  
2815 member's estimated creditable service and estimated average  
2816 final compensation under the pension plan ~~defined benefit~~  
2817 ~~program~~, subject to recomputation under subparagraph 2. ~~3.~~ For  
2818 state employees ~~enrolling under subparagraph (4)(a)1.~~, initial  
2819 estimates shall ~~will~~ be based upon creditable service and  
2820 average final compensation as of midnight on June 30, 2002; for  
2821 district school board employees ~~enrolling under subparagraph~~  
2822 ~~(4)(b)1.~~, initial estimates shall ~~will~~ be based upon creditable  
2823 service and average final compensation as of midnight on  
2824 September 30, 2002; and for local government employees ~~enrolling~~  
2825 ~~under subparagraph (4)(c)1.~~, initial estimates shall ~~will~~ be  
2826 based upon creditable service and average final compensation as  
2827 of midnight on December 31, 2002. The dates ~~respectively~~  
2828 ~~specified are above shall be construed as the "estimate date"~~

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for these employees. The actuarial present value of the employee's accumulated benefit obligation shall be based on the following:

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

b. A benefit commencement age, based on the member's estimated creditable service as of the estimate date. The benefit commencement age is ~~shall be~~ the younger of the following, but may ~~shall~~ not be younger than the member's age as of the estimate date:

(I) Age 62; or

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

c. For members of the Special Risk Class, and for members of the Special Risk Administrative Support Class entitled to retain the special risk normal retirement date, the benefit commencement age is ~~shall be~~ the younger of the following, but may ~~shall~~ not be younger than the member's age as of the estimate date:

(I) Age 55; or

(II) The age the member would attain if the member

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2857 completed 25 years of service with an employer, assuming the  
2858 member worked continuously from the estimate date, and  
2859 disregarding any vesting requirement that would otherwise apply  
2860 under the pension plan ~~defined benefit program of the Florida~~  
2861 ~~Retirement System.~~

2862 d. The calculation must ~~shall~~ disregard vesting  
2863 requirements and early retirement reduction factors that would  
2864 otherwise apply under the pension plan ~~defined benefit~~  
2865 ~~retirement program.~~

2866 ~~2.3.~~ For each member ~~participant~~ who elects to transfer  
2867 moneys from the pension plan ~~defined benefit program~~ to his or  
2868 her account in the investment plan ~~optional program~~, the  
2869 division shall recompute the amount transferred under  
2870 subparagraph 1. ~~within 2. not later than~~ 60 days after the  
2871 actual transfer of funds based upon the member's ~~participant's~~  
2872 actual creditable service and actual final average compensation  
2873 as of the initial date of participation in the investment plan  
2874 ~~optional program~~. If the recomputed amount differs from the  
2875 amount transferred ~~under subparagraph 2.~~ by \$10 or more, the  
2876 division shall:

2877 a. Transfer, or cause to be transferred, from the Florida  
2878 Retirement System Trust Fund to the member's ~~participant's~~  
2879 account ~~in the optional program~~ the excess, if any, of the  
2880 recomputed amount over the previously transferred amount  
2881 together with interest from the initial date of transfer to the  
2882 date of transfer under this subparagraph, based upon the  
2883 effective annual interest equal to the assumed return on the  
2884 actuarial investment which was used in the most recent actuarial

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valuation of the system, compounded annually.

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

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

4. As directed by the member ~~participant~~, the state board shall transfer or cause to be transferred the appropriate amounts to the designated accounts within. ~~The board shall establish transfer procedures by rule, but the actual transfer shall not be later than~~ 30 days after the effective date of the member's participation in the investment plan ~~optional program~~ unless the major financial markets for securities available for a transfer are seriously disrupted by an unforeseen event that ~~which also~~ causes the suspension of trading on any national



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securities exchange in the country where the securities were issued. In that event, the ~~such~~ 30-day period ~~of time~~ may be extended by a resolution of the state board ~~trustees~~. Transfers are not commissionable or subject to other fees and may be in the form of securities or cash, as determined by the state board. Such securities are ~~shall be~~ valued as of the date of receipt in the member's ~~participant's~~ account.

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

(4) PARTICIPATION; ENROLLMENT.—

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

a. Any such employee may elect to participate in the investment plan ~~Public Employee Optional Retirement Program~~ in lieu of retaining his or her membership in the pension plan ~~defined benefit program of the Florida Retirement System~~. The election must be made in writing or by electronic means and must be filed with the third-party administrator by August 31, 2002, or, in the case of an active employee who is on a leave of absence on April 1, 2002, by the last business day of the 5th month following the month the leave of absence concludes. This

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election is irrevocable, except as provided in paragraph (g)  
~~(e)~~. Upon making such election, the employee shall be enrolled  
as a member participant of the investment plan ~~Public Employee~~  
~~Optional Retirement Program~~, the employee's membership in the  
Florida Retirement System shall be governed by the provisions of  
this part, and the employee's membership in the pension plan  
~~defined benefit program of the Florida Retirement System~~ shall  
terminate. The employee's enrollment in the investment plan  
~~Public Employee Optional Retirement Program~~ shall be effective  
the first day of the month for which a full month's employer  
contribution is made to the investment plan ~~optional program~~.

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

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

a. Any such employee shall, by default, be enrolled in the  
pension plan ~~defined benefit retirement program of the Florida~~  
~~Retirement System~~ at the commencement of employment, and may, by  
the last business day of the 5th month following the employee's  
month of hire, elect to participate in the investment plan

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2969 ~~Public Employee Optional Retirement Program~~. The employee's  
2970 election must be made in writing or by electronic means and must  
2971 be filed with the third-party administrator. The election to  
2972 participate in the investment plan ~~optional program~~ is  
2973 irrevocable, except as provided in paragraph (g) ~~(e)~~.

2974 b. If the employee files such election within the  
2975 prescribed time period, enrollment in the investment plan is  
2976 ~~optional program~~ shall be effective on the first day of  
2977 employment. The ~~employer~~ retirement contributions paid through  
2978 the month of the employee plan change shall be transferred to  
2979 the investment ~~optional~~ program, and, effective the first day of  
2980 the next month, the employer and participant must ~~shall~~ pay the  
2981 applicable contributions based on the employee membership class  
2982 in the ~~optional~~ program.

2983 c. An ~~Any~~ such employee who fails to elect to participate  
2984 in the investment plan ~~Public Employee Optional Retirement~~  
2985 ~~Program~~ within the prescribed time period is deemed to have  
2986 elected to retain membership in the pension plan ~~defined benefit~~  
2987 ~~program of the Florida Retirement System~~, and the employee's  
2988 option to elect to participate in the investment plan ~~optional~~  
2989 ~~program~~ is forfeited.

2990 3. With respect to employees who become eligible to  
2991 participate in the investment plan ~~Public Employee Optional~~  
2992 ~~Retirement Program~~ pursuant to s. 121.051(2)(c)3. or s.  
2993 121.35(3)(i), the ~~any~~ such employee may elect to participate in  
2994 the investment plan ~~Public Employee Optional Retirement Program~~  
2995 in lieu of retaining his or her membership ~~participation~~ in the  
2996 State Community College System Optional Retirement Program or

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the State University System Optional Retirement Program. The election must be made in writing or by electronic means and must be filed with the third-party administrator. This election is irrevocable, except as provided in paragraph (g) ~~(e)~~. Upon making such election, the employee shall be enrolled as a member in participant of the investment plan ~~Public Employee Optional Retirement Program~~, the employee's membership in the Florida Retirement System shall be governed by the provisions of this part, and the employee's participation in the State Community College System Optional Retirement Program or the State University System Optional Retirement Program shall terminate. The employee's enrollment in the investment plan is ~~Public Employee Optional Retirement Program shall be~~ effective on the first day of the month for which a full month's employer and employee contribution is made to the investment plan ~~optional program~~.

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

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

a. Any such employee may elect to participate in the investment plan ~~Public Employee Optional Retirement Program~~ in lieu of retaining his or her membership in the pension plan

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3025 ~~defined benefit program of the Florida Retirement System.~~ The  
3026 election must be made in writing or by electronic means and must  
3027 be filed with the third-party administrator by November 30, or,  
3028 in the case of an active employee who is on a leave of absence  
3029 on July 1, 2002, by the last business day of the 5th month  
3030 following the month the leave of absence concludes. This  
3031 election is irrevocable, except as provided in paragraph (g)  
3032 ~~(e)~~. Upon making such election, the employee shall be enrolled  
3033 as a member participant of the investment plan ~~Public Employee~~  
3034 ~~Optional Retirement Program~~, the employee's membership in the  
3035 Florida Retirement System shall be governed by the provisions of  
3036 this part, and the employee's membership in the pension plan  
3037 ~~defined benefit program of the Florida Retirement System~~ shall  
3038 terminate. The employee's enrollment in the investment plan  
3039 ~~Public Employee Optional Retirement Program~~ shall be effective  
3040 the first day of the month for which a full month's employer  
3041 contribution is made to the investment ~~optional~~ program.

3042       b. Any such employee who fails to elect to participate in  
3043 the investment plan ~~Public Employee Optional Retirement Program~~  
3044 within the prescribed time period is deemed to have elected to  
3045 retain membership in the pension plan ~~defined benefit program of~~  
3046 ~~the Florida Retirement System~~, and the employee's option to  
3047 elect to participate in the investment plan ~~optional program~~ is  
3048 forfeited.

3049       2. With respect to employees who become eligible to  
3050 participate in the investment plan ~~Public Employee Optional~~  
3051 ~~Retirement Program~~ by reason of employment in a regularly  
3052 established position with a district school board employer

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commencing after July 1, 2002:

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

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

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

3. For purposes of this paragraph, "district school board

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3081 employer" means any district school board that participates in  
3082 the Florida Retirement System for the benefit of certain  
3083 employees, or a charter school or charter technical career  
3084 center that participates in the Florida Retirement System as  
3085 provided in s. 121.051(2) (d).

3086 (c)1. With respect to an eligible employee who is employed  
3087 in a regularly established position on December 1, 2002, by a  
3088 local employer:

3089 a. Any such employee may elect to participate in the  
3090 investment plan ~~Public Employee Optional Retirement Program~~ in  
3091 lieu of retaining his or her membership in the pension plan  
3092 ~~defined benefit program of the Florida Retirement System~~. The  
3093 election must be made in writing or by electronic means and must  
3094 be filed with the third-party administrator by February 28,  
3095 2003, or, in the case of an active employee who is on a leave of  
3096 absence on October 1, 2002, by the last business day of the 5th  
3097 month following the month the leave of absence concludes. This  
3098 election is irrevocable, except as provided in paragraph (g)  
3099 ~~(e)~~. Upon making such election, the employee shall be enrolled  
3100 as a participant of the investment plan ~~Public Employee Optional~~  
3101 ~~Retirement Program~~, the employee's membership in the Florida  
3102 Retirement System shall be governed by the provisions of this  
3103 part, and the employee's membership in the pension plan ~~defined~~  
3104 ~~benefit program of the Florida Retirement System~~ shall  
3105 terminate. The employee's enrollment in the investment plan  
3106 ~~Public Employee Optional Retirement Program~~ shall be effective  
3107 the first day of the month for which a full month's employer  
3108 contribution is made to the investment plan ~~optional program~~.

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3109           b. Any such employee who fails to elect to participate in  
3110 the investment plan ~~Public Employee Optional Retirement Program~~  
3111 within the prescribed time period is deemed to have elected to  
3112 retain membership in the pension plan ~~defined benefit program of~~  
3113 ~~the Florida Retirement System~~, and the employee's option to  
3114 elect to participate in the investment plan ~~optional program~~ is  
3115 forfeited.

3116           2. With respect to employees who become eligible to  
3117 participate in the investment plan ~~Public Employee Optional~~  
3118 ~~Retirement Program~~ by reason of employment in a regularly  
3119 established position with a local employer commencing after  
3120 October 1, 2002:

3121           a. Any such employee shall, by default, be enrolled in the  
3122 pension plan ~~defined benefit retirement program of the Florida~~  
3123 ~~Retirement System~~ at the commencement of employment, and may, by  
3124 the last business day of the 5th month following the employee's  
3125 month of hire, elect to participate in the investment plan  
3126 ~~Public Employee Optional Retirement Program~~. The employee's  
3127 election must be made in writing or by electronic means and must  
3128 be filed with the third-party administrator. The election to  
3129 participate in the investment plan ~~optional program~~ is  
3130 irrevocable, except as provided in paragraph (g) ~~(e)~~.

3131           b. If the employee files such election within the  
3132 prescribed time period, enrollment in the investment plan  
3133 ~~optional program~~ shall be effective on the first day of  
3134 employment. The employer retirement contributions paid through  
3135 the month of the employee plan change shall be transferred to  
3136 the investment plan ~~optional program~~, and, effective the first



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3137 day of the next month, the employer shall pay the applicable  
3138 contributions based on the employee membership class in the  
3139 investment plan ~~optional program~~.

3140 c. Any such employee who fails to elect to participate in  
3141 the investment plan ~~Public Employee Optional Retirement Program~~  
3142 within the prescribed time period is deemed to have elected to  
3143 retain membership in the pension plan ~~defined benefit program of~~  
3144 ~~the Florida Retirement System~~, and the employee's option to  
3145 elect to participate in the investment plan ~~optional program~~ is  
3146 forfeited.

3147 3. For purposes of this paragraph, "local employer" means  
3148 any employer not included in paragraph (a) or paragraph (b).

3149 (d) Contributions available for self-direction by a member  
3150 ~~participant~~ who has not selected one or more specific investment  
3151 products shall be allocated as prescribed by the state board.  
3152 The third-party administrator shall notify the member ~~any such~~  
3153 ~~participant~~ at least quarterly that the member ~~participant~~  
3154 should take an affirmative action to make an asset allocation  
3155 among the investment ~~optional program~~ products.

3156 (e) On or after July 1, 2011, a member of the pension plan  
3157 who obtains a refund of employee contributions retains his or  
3158 her prior plan choice upon return to employment in a regularly  
3159 established position with a participating employer.

3160 (f) A member of the investment plan who takes a  
3161 distribution of any contributions from his or her investment  
3162 plan account is considered a retiree. Upon reemployment in a  
3163 regularly established position with a participating employer,  
3164 the member returns as a new hire. A retiree who is initially

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reemployed on or after July 1, 2010, is not eligible for renewed membership.

(g)~~(e)~~ After the period during which an eligible employee had the choice to elect the pension plan ~~defined benefit program~~ or the investment plan ~~optional retirement program~~, or the month following the receipt of the eligible employee's plan election, if sooner, the employee shall have one opportunity, at the employee's discretion, to choose to move from the pension plan ~~defined benefit program~~ to the investment plan ~~optional retirement program~~ or from the investment plan ~~optional retirement program~~ to the pension plan ~~defined benefit program~~.

Eligible employees may elect to move between Florida Retirement System programs only if they are earning service credit in an employer-employee relationship consistent with s. 121.021(17)(b), excluding leaves of absence without pay.

Effective July 1, 2005, such elections are effective on the first day of the month following the receipt of the election by the third-party administrator and are not subject to the requirements regarding an employer-employee relationship or receipt of contributions for the eligible employee in the effective month, except when the election is received by the third-party administrator. This paragraph is contingent upon approval by ~~from~~ the Internal Revenue Service ~~for including the choice described herein within the programs offered by the Florida Retirement System.~~

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

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3193           2. If the employee chooses to move to the pension plan  
3194 ~~defined benefit program~~, the employee must transfer from his or  
3195 her investment plan ~~optional retirement program~~ account, and  
3196 from other employee moneys as necessary, a sum representing the  
3197 present value of that employee's accumulated benefit obligation  
3198 immediately following the time of such movement, determined  
3199 assuming that attained service equals the sum of service in the  
3200 pension plan ~~defined benefit program~~ and service in the  
3201 investment plan ~~optional retirement program~~. Benefit  
3202 commencement occurs on the first date the employee is eligible  
3203 for unreduced benefits, using the discount rate and other  
3204 relevant actuarial assumptions that were used to value the  
3205 pension ~~defined benefit~~ plan liabilities in the most recent  
3206 actuarial valuation. For any employee who, at the time of the  
3207 second election, already maintains an accrued benefit amount in  
3208 the pension plan ~~defined benefit program~~, the then-present value  
3209 of the accrued benefit shall be deemed part of the required  
3210 transfer amount. The division shall ensure that the transfer sum  
3211 is prepared using a formula and methodology certified by an  
3212 enrolled actuary. A refund of any employee contributions or  
3213 additional member payments made which exceed the employee  
3214 contributions that would have accrued had the member remained in  
3215 the pension plan and not transferred to the investment plan is  
3216 not permitted.

3217           3. Notwithstanding subparagraph 2., an employee who  
3218 chooses to move to the pension plan ~~defined benefit program~~ and  
3219 who became eligible to participate in the investment plan  
3220 ~~optional retirement program~~ by reason of employment in a

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3221 regularly established position with a state employer after June  
3222 1, 2002; a district school board employer after September 1,  
3223 2002; or a local employer after December 1, 2002, must transfer  
3224 from his or her investment plan ~~optional retirement program~~  
3225 account, and from other employee moneys as necessary, a sum  
3226 representing the employee's actuarial accrued liability. A  
3227 refund of any employee contributions or additional participant  
3228 payments made which exceed the employee contributions that would  
3229 have accrued had the member remained in the pension plan and not  
3230 transferred to the investment plan is not permitted.

3231 4. An employee's ability to transfer from the pension plan  
3232 ~~defined benefit program~~ to the investment plan ~~optional~~  
3233 ~~retirement program~~ pursuant to paragraphs (a)-(d), and the  
3234 ability of a current employee to have an option to later  
3235 transfer back into the pension plan ~~defined benefit program~~  
3236 under subparagraph 2., shall be deemed a significant system  
3237 amendment. Pursuant to s. 121.031(4), any resulting unfunded  
3238 liability arising from actual original transfers from the  
3239 pension plan ~~defined benefit program~~ to the investment plan  
3240 ~~optional program~~ must be amortized within 30 plan years as a  
3241 separate unfunded actuarial base independent of the reserve  
3242 stabilization mechanism defined in s. 121.031(3)(f). For the  
3243 first 25 years, a direct amortization payment may not be  
3244 calculated for this base. During this 25-year period, the  
3245 separate base shall be used to offset the impact of employees  
3246 exercising their second program election under this paragraph.  
3247 ~~It is the intent of the Legislature that~~ The actuarial funded  
3248 status of the pension plan will ~~defined benefit program~~ not be

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3249 affected by such second program elections in any significant  
3250 manner, after due recognition of the separate unfunded actuarial  
3251 base. Following the initial 25-year period, any remaining  
3252 balance of the original separate base shall be amortized over  
3253 the remaining 5 years of the required 30-year amortization  
3254 period.

3255         5. If the employee chooses to transfer from the investment  
3256 plan ~~optional retirement program~~ to the pension plan ~~defined~~  
3257 ~~benefit program~~ and retains an excess account balance in the  
3258 investment plan ~~optional program~~ after satisfying the buy-in  
3259 requirements under this paragraph, the excess may not be  
3260 distributed until the member retires from the pension plan  
3261 ~~defined benefit program~~. The excess account balance may be  
3262 rolled over to the pension plan ~~defined benefit program~~ and used  
3263 to purchase service credit or upgrade creditable service in the  
3264 pension plan ~~that program~~.

3265         (5) CONTRIBUTIONS.—

3266         (a) The employee and ~~Each~~ employer shall make the required  
3267 contributions to ~~contribute on behalf of each participant in the~~  
3268 investment plan based on a percentage of the employee's gross  
3269 monthly compensation ~~Public Employee Optional Retirement~~  
3270 ~~Program~~, as provided in part III of this chapter.

3271         (b) Employee contributions shall be paid as provided in s.  
3272 121.72(2).

3273         (c) The state board, acting as plan fiduciary, shall  
3274 ensure that all plan assets are held in a trust, pursuant to s.  
3275 401 of the Internal Revenue Code. The fiduciary shall ensure  
3276 that such ~~said~~ contributions are allocated as follows:

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3277           1. The employer and employee contribution portion  
3278 earmarked for member ~~participant~~ accounts shall be used to  
3279 purchase interests in the appropriate investment vehicles ~~for~~  
3280 ~~the accounts of each participant~~ as specified by the member  
3281 ~~participant~~, or in accordance with paragraph (4) (d).

3282           2. The employer contribution portion earmarked for  
3283 administrative and educational expenses shall be transferred to  
3284 the Florida Retirement System Investment Plan Trust Fund ~~board~~.

3285           3. The employer contribution portion earmarked for  
3286 disability benefits shall be transferred to the Florida  
3287 Retirement System Trust Fund ~~department~~.

3288           ~~(d) (b)~~ The third-party administrator is ~~Employers are~~  
3289 responsible for monitoring and notifying employers of the  
3290 ~~participants regarding~~ maximum contribution levels allowed for  
3291 members ~~permitted~~ under the Internal Revenue Code. If a member  
3292 ~~participant~~ contributes to any other tax-deferred plan, the  
3293 member ~~he or she~~ is responsible for ensuring that total  
3294 contributions made to the investment plan ~~optional program~~ and  
3295 to any other such plan do not exceed federally permitted  
3296 maximums.

3297           ~~(e) (c)~~ The investment plan ~~Public Employee Optional~~  
3298 ~~Retirement Program~~ may accept for deposit into member  
3299 ~~participant~~ accounts contributions in the form of rollovers or  
3300 direct trustee-to-trustee transfers by or on behalf of members  
3301 ~~participants~~, reasonably determined by the state board to be  
3302 eligible for rollover or transfer to the investment plan  
3303 ~~optional retirement program~~ pursuant to the Internal Revenue  
3304 Code, if such contributions are made in accordance with rules ~~as~~

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3305 ~~may be~~ adopted by the board. Such contributions must ~~shall~~ be  
3306 accounted for in accordance with ~~any~~ applicable Internal Revenue  
3307 Code requirements and rules of the state board.

3308 (6) VESTING REQUIREMENTS.—

3309 (a) A member is fully and immediately vested in all  
3310 employee contributions paid to the investment plan as provided  
3311 in s. 121.72(2), plus interest and earnings thereon and less  
3312 investment fees and administrative charges.

3313 (b) ~~(a)~~ 1. With respect to employer contributions paid on  
3314 behalf of the member participant to the investment plan ~~optional~~  
3315 ~~retirement program~~, plus interest and earnings thereon and less  
3316 investment fees and administrative charges, a member participant  
3317 is vested after completing 1 work year with an employer,  
3318 including any service while the member participant was a member  
3319 of the pension plan ~~defined benefit program~~ or an optional  
3320 retirement program authorized under s. 121.051(2)(c) or s.  
3321 121.055(6).

3322 2. If the member participant terminates employment before  
3323 satisfying the vesting requirements, the nonvested accumulation  
3324 must be transferred from the member's participant's accounts to  
3325 the state board for deposit and investment by the state board in  
3326 its ~~the~~ suspense account created within the Florida Retirement  
3327 System Investment Plan ~~Public Employee Optional Retirement~~  
3328 ~~Program~~ Trust Fund. If the terminated member participant is  
3329 reemployed as an eligible employee within 5 years, the state  
3330 board shall transfer to the member's participant's account any  
3331 amount previously transferred from the member's participant's  
3332 accounts to the suspense account, plus actual earnings on such

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amount while in the suspense account.

(c) ~~(b)~~ 1. With respect to amounts contributed by an employer and transferred from the pension plan ~~defined benefit program~~ to the investment plan ~~program~~, plus interest and earnings, and less investment fees and administrative charges, a member participant shall be vested in the amount transferred upon meeting the service requirements for the member's participant's membership class as set forth in s. 121.021(29). The third-party administrator shall account for such amounts for each member participant. The division shall notify the member participant and the third-party administrator when the member participant has satisfied the vesting period for Florida Retirement System purposes.

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

(d) ~~(c)~~ Any nonvested accumulations transferred from a member's participant's account to the state board's suspense account shall be forfeited, including accompanying service



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3361 credit, by the member ~~participant~~ if the member ~~participant~~ is  
3362 not reemployed as an eligible employee within 5 years after  
3363 termination.

3364 (e) If the member elects to receive any of his or her  
3365 vested employee or employer contributions upon termination of  
3366 employment as provided in s. 121.021(39) (a), except for a  
3367 mandatory distribution of a de minimis account authorized by the  
3368 state board or a minimum required distribution provided by s.  
3369 401(a) (9) of the Internal Revenue Code, the member shall forfeit  
3370 all nonvested employer contributions, and accompanying service  
3371 credit, paid on behalf of the member to the investment plan.

3372 (7) BENEFITS.—Under the investment plan, benefits must  
3373 ~~Public Employee Optional Retirement Program:~~

3374 (a) ~~Benefits shall~~ Be provided in accordance with s.  
3375 401(a) of the Internal Revenue Code.

3376 (b) ~~Benefits shall~~ Accrue in individual accounts that are  
3377 member-directed ~~participant-directed~~, portable, and funded by  
3378 employer and employee contributions and earnings thereon.

3379 (c) ~~Benefits shall~~ Be payable in accordance with ~~the~~  
3380 provisions of s. 121.591.

3381 (8) INVESTMENT PLAN ADMINISTRATION OF PROGRAM.—

3382 ~~(a)~~ The investment plan optional retirement program shall  
3383 be administered by the state board and affected employers. The  
3384 state board may require oaths, by affidavit or otherwise, and  
3385 acknowledgments from persons in connection with the  
3386 administration of its statutory duties and responsibilities for  
3387 the investment plan ~~this program~~. An oath, by affidavit or  
3388 otherwise, may not be required of a member ~~an employee~~

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3389 ~~participant~~ at the time of enrollment. Acknowledgment of an  
3390 employee's election to participate in the program shall be no  
3391 greater than necessary to confirm the employee's election. The  
3392 state board shall adopt rules to carry out its statutory duties  
3393 with respect to administering the investment plan ~~optional~~  
3394 ~~retirement program~~, including establishing the roles and  
3395 responsibilities of affected state, local government, and  
3396 education-related employers, the state board, the department,  
3397 and third-party contractors. The department shall adopt rules  
3398 necessary to administer the investment plan ~~optional program~~ in  
3399 coordination with the pension plan ~~defined benefit program~~ and  
3400 the disability benefits available under the investment plan  
3401 ~~optional program~~.

3402       (a) ~~(b)~~1. The state board shall select and contract with a  
3403 ~~one~~ third-party administrator to provide administrative services  
3404 if those services cannot be competitively and contractually  
3405 provided by the division ~~of Retirement within the Department of~~  
3406 ~~Management Services~~. With the approval of the state board, the  
3407 third-party administrator may subcontract ~~with other~~  
3408 ~~organizations or individuals~~ to provide components of the  
3409 administrative services. As a cost of administration, the state  
3410 board may compensate any such contractor for its services, in  
3411 accordance with the terms of the contract, as is deemed  
3412 necessary or proper by the board. The third-party administrator  
3413 may not be an approved provider or be affiliated with an  
3414 approved provider.

3415       2. These administrative services may include, but are not  
3416 limited to, enrollment of eligible employees, collection of

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3417 employer and employee contributions, disbursement of ~~such~~  
3418 contributions to approved providers in accordance with the  
3419 allocation directions of members ~~participants~~; services relating  
3420 to consolidated billing; individual and collective recordkeeping  
3421 and accounting; asset purchase, control, and safekeeping; and  
3422 direct disbursement of funds to and from the third-party  
3423 administrator, the division, the state board, employers, members  
3424 ~~participants~~, approved providers, and beneficiaries. This  
3425 section does not prevent or prohibit a bundled provider from  
3426 providing any administrative or customer service, including  
3427 accounting and administration of individual member ~~participant~~  
3428 benefits and contributions; individual member ~~participant~~  
3429 recordkeeping; asset purchase, control, and safekeeping; direct  
3430 execution of the member's ~~participant's~~ instructions as to asset  
3431 and contribution allocation; calculation of daily net asset  
3432 values; direct access to member ~~participant~~ account information;  
3433 or periodic reporting to members ~~participants~~, at least  
3434 quarterly, on account balances and transactions, if these  
3435 services are authorized by the state board as part of the  
3436 contract.

3437 (b)1.3. The state board shall select and contract with one  
3438 or more organizations to provide educational services. With  
3439 approval of the state board, the organizations may subcontract  
3440 ~~with other organizations or individuals~~ to provide components of  
3441 the educational services. As a cost of administration, the state  
3442 board may compensate any such contractor for its services in  
3443 accordance with the terms of the contract, as is deemed  
3444 necessary or proper by the board. The education organization may

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not be an approved provider or be affiliated with an approved provider.

2.4. Educational services shall be designed by the state board and department to assist employers, eligible employees, members ~~participants~~, and beneficiaries in order to maintain compliance with United States Department of Labor regulations under s. 404(c) of the Employee Retirement Income Security Act of 1974 and to assist employees in their choice of pension plan ~~defined benefit~~ or investment plan ~~defined contribution~~ retirement alternatives. Educational services include, but are not limited to, disseminating educational materials; providing retirement planning education; explaining the pension ~~differences between the defined benefit retirement~~ plan and the investment ~~defined contribution retirement~~ plan; and offering financial planning guidance on matters such as investment diversification, investment risks, investment costs, and asset allocation. An approved provider may also provide educational information, including retirement planning and investment allocation information concerning its products and services.

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

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

b. The administrator's demonstrated experience in

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3473 providing daily valued recordkeeping to defined contribution  
3474 programs ~~plans~~.

3475 c. The administrator's ability and willingness to  
3476 coordinate its activities with ~~the Florida Retirement System~~  
3477 employers, the state board, and the division, and to supply to  
3478 such employers, the board, and the division the information and  
3479 data they require, including, but not limited to, monthly  
3480 management reports, quarterly member ~~participant~~ reports, and ad  
3481 hoc reports requested by the department or state board.

3482 d. The cost-effectiveness and levels of the administrative  
3483 services provided.

3484 e. The administrator's ability to interact with the  
3485 members ~~participants~~, the employers, the state board, the  
3486 division, and the providers; the means by which members  
3487 ~~participants~~ may access account information, direct investment  
3488 of contributions, make changes to their accounts, transfer  
3489 moneys between available investment vehicles, and transfer  
3490 moneys between investment products; and any fees that apply to  
3491 such activities.

3492 f. Any other factor deemed necessary by the ~~Trustees of~~  
3493 ~~the state board of Administration~~.

3494 2. In evaluating and selecting an educational provider,  
3495 the state board shall establish criteria under which it shall  
3496 consider the relative capabilities and qualifications of each  
3497 proposed educational provider. In developing such criteria, the  
3498 state board shall consider:

3499 a. Demonstrated experience in providing educational  
3500 services to public or private sector retirement systems.

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

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

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

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

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

(d) The state board shall develop the form and content of any contracts to be offered under the investment plan ~~Public Employee Optional Retirement Program~~. In developing the ~~its~~ contracts, the board shall ~~must~~ consider:

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

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

(e)1. The state board may contract ~~with any consultant~~ for professional services, including legal, consulting, accounting, and actuarial services, deemed necessary to implement and administer the investment plan ~~optional program by the Trustees~~

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3529 ~~of the State Board of Administration.~~ The state board may enter  
3530 into a contract with one or more vendors to provide low-cost  
3531 investment advice to members ~~participants~~, supplemental to  
3532 education provided by the third-party administrator. All fees  
3533 under any such contract shall be paid by those members  
3534 ~~participants~~ who choose to use the services of the vendor.

3535 2. The department may contract ~~with consultants~~ for  
3536 professional services, including legal, consulting, accounting,  
3537 and actuarial services, deemed necessary to implement and  
3538 administer the investment plan ~~optional program~~ in coordination  
3539 with the pension plan ~~defined benefit program of the Florida~~  
3540 ~~Retirement System~~. The department, in coordination with the  
3541 state board, may enter into a contract with the third-party  
3542 administrator in order to coordinate services common to the  
3543 various programs within the Florida Retirement System.

3544 (f) The third-party administrator may ~~shall~~ not receive  
3545 direct or indirect compensation from an approved provider,  
3546 except as specifically provided for in the contract with the  
3547 state board.

3548 (g) The state board shall receive and resolve member  
3549 ~~participant~~ complaints against the program, the third-party  
3550 administrator, or any program vendor or provider; shall resolve  
3551 any conflict between the third-party administrator and an  
3552 approved provider if such conflict threatens the implementation  
3553 or administration of the program or the quality of services to  
3554 employees; and may resolve any other conflicts. The third-party  
3555 administrator shall retain all member ~~participant~~ records for at  
3556 least 5 years for use in resolving any member ~~participant~~

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3557 conflicts. The state board, the third-party administrator, or a  
3558 provider is not required to produce documentation or an audio  
3559 recording to justify action taken with regard to a member  
3560 ~~participant~~ if the action occurred 5 or more years before the  
3561 complaint is submitted to the state board. It is presumed that  
3562 all action taken 5 or more years before the complaint is  
3563 submitted was taken at the request of the member ~~participant~~ and  
3564 with the member's ~~participant's~~ full knowledge and consent. To  
3565 overcome this presumption, the member ~~participant~~ must present  
3566 documentary evidence or an audio recording demonstrating  
3567 otherwise.

3568 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

3569 (a) The state board shall develop policy and procedures  
3570 for selecting, evaluating, and monitoring the performance of  
3571 approved providers and investment products ~~to which employees~~  
3572 ~~may direct retirement contributions~~ under the investment plan  
3573 ~~program~~. In accordance with such policy and procedures, the  
3574 state board shall designate and contract for a number of  
3575 investment products as determined by the board. The board shall  
3576 also select one or more bundled providers, each of which ~~whom~~  
3577 may offer multiple investment options and related services, if  
3578 ~~when~~ such ~~an~~ approach is determined by the board to provide  
3579 ~~afford~~ value to the members ~~participants~~ otherwise not available  
3580 through individual investment products. Each approved bundled  
3581 provider may offer investment options that provide members  
3582 ~~participants~~ with the opportunity to invest in each of the  
3583 following asset classes, to be composed of individual options  
3584 that represent ~~either~~ a single asset class or a combination



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thereof: money markets, United States fixed income, United States equities, and foreign stock. The state board shall review and manage all educational materials, contract terms, fee schedules, and other aspects of the approved provider relationships to ensure that no provider is unduly favored or penalized by virtue of its status within the investment plan.

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

1. The investment plan ~~Public Employee Optional Retirement Program~~ must offer a diversified mix of low-cost investment products that span the risk-return spectrum and may include a guaranteed account as well as investment products, such as individually allocated guaranteed and variable annuities, which meet the requirements of this subsection and combine the ability to accumulate investment returns with the option of receiving lifetime income consistent with the long-term retirement security of a pension plan and similar to the lifetime-income benefit provided by the Florida Retirement System.

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

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3613 full liquidity.

3614       3. The state board may ~~shall~~ not contract with a any  
3615 provider that imposes a front-end, back-end, contingent, or  
3616 deferred sales charge, or any other fee that limits or restricts  
3617 the ability of members ~~participants~~ to select any investment  
3618 product available in the investment plan ~~optional program~~. This  
3619 prohibition does not apply to fees or charges that are imposed  
3620 on withdrawals from products that give members ~~participants~~ the  
3621 option of committing ~~their~~ contributions for an extended time  
3622 period in an effort to obtain returns higher than those that  
3623 could be obtained from investment products offering full  
3624 liquidity, if ~~provided that~~ the product ~~in question~~, net of all  
3625 fees and charges, produces material benefits relative to other  
3626 comparable products in the investment plan ~~program~~ offering full  
3627 liquidity.

3628       4. Fees or charges for insurance features, such as  
3629 mortality and expense-risk charges, must be reasonable relative  
3630 to the benefits provided.

3631       (c) In evaluating and selecting approved providers and  
3632 products, the state board shall establish criteria for  
3633 evaluating ~~under which it shall consider~~ the relative  
3634 capabilities and qualifications of each proposed provider  
3635 company and product. In developing such criteria, the board  
3636 shall consider the following to the extent such factors may be  
3637 applied in connection with investment products, services, or  
3638 providers:

3639       1. Experience in the United States providing retirement  
3640 products and related financial services under defined

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3641 contribution retirement programs ~~plans~~.

3642 2. Financial strength and stability as ~~which shall be~~  
3643 evidenced by the highest ratings assigned by nationally  
3644 recognized rating services when comparing proposed providers  
3645 that are so rated.

3646 3. Intrastate and interstate portability of the product  
3647 offered, including early withdrawal options.

3648 4. Compliance with the Internal Revenue Code.

3649 5. The cost-effectiveness of the product provided and the  
3650 levels of service supporting the product relative to its  
3651 benefits and its characteristics, including, ~~without limitation,~~  
3652 the level of risk borne by the provider.

3653 6. The provider company's ability and willingness to  
3654 coordinate its activities with Florida Retirement System  
3655 employers, the department, and the state board, and to supply  
3656 ~~the to such~~ employers, the department, and the board with the  
3657 information and data they require.

3658 7. The methods available to members ~~participants~~ to  
3659 interact with the provider company; the means by which members  
3660 ~~participants~~ may access account information, direct investment  
3661 of contributions, make changes to their accounts, transfer  
3662 moneys between available investment vehicles, and transfer  
3663 moneys between provider companies; and any fees that apply to  
3664 such activities.

3665 8. The provider company's policies with respect to the  
3666 transfer of individual account balances, contributions, and  
3667 earnings thereon, both internally among investment products  
3668 offered by the provider company and externally between approved

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providers, as well as any fees, charges, reductions, or penalties that may be applied.

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

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

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

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

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board of ~~Administration~~.

(f) The state board shall regularly review the performance of each approved provider and product and related organizational factors to ensure continued compliance with established selection criteria and with board policy and procedures.

Providers and products may be terminated subject to contract provisions. The state board shall adopt procedures to transfer account balances from terminated products or providers to other products or providers in the investment plan ~~optional program~~.

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

2. Approved provider personnel who directly communicate with individual members ~~participants~~ and who recommend investment products shall make an independent and unbiased determination as to whether an investment product is suitable for a particular member ~~participant~~.

3. The state board shall develop procedures to receive and resolve member ~~participant~~ complaints against a provider or

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3725 approved provider personnel, and, if ~~when~~ appropriate, refer  
3726 such complaints to the appropriate agency.

3727 4. Approved providers may not sell or in any way  
3728 distribute any customer list or member ~~participant~~  
3729 identification information generated through their offering of  
3730 products or services through the investment plan ~~optional~~  
3731 ~~retirement program~~.

3732 (10) EDUCATION COMPONENT.—

3733 (a) The state board, in coordination with the department,  
3734 shall provide for an education component for system members in a  
3735 manner consistent with the provisions of this section. The  
3736 education component must be available to eligible employees at  
3737 least 90 days prior to the beginning date of the election period  
3738 for the employees of the respective types of employers.

3739 (b) The education component must provide system members  
3740 with impartial and balanced information about plan choices. The  
3741 education component must involve multimedia formats. Program  
3742 comparisons must, to the greatest extent possible, be based upon  
3743 the retirement income that different retirement programs may  
3744 provide to the member ~~participant~~. The state board shall monitor  
3745 the performance of the contract to ensure that the program is  
3746 conducted in accordance with the contract, applicable law, and  
3747 the rules of the state board.

3748 (c) The state board, in coordination with the department,  
3749 shall provide for an initial and ongoing transfer education  
3750 component to provide system members with information necessary  
3751 to make informed plan choice decisions. The transfer education  
3752 component must include, but is not limited to, information on:

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3753 1. The amount of money available to a member to transfer  
3754 to the defined contribution program.

3755 2. The features of and differences between the pension  
3756 plan ~~defined benefit program~~ and the defined contribution  
3757 program, both generally and specifically, as those differences  
3758 may affect the member.

3759 3. The expected benefit available if the member were to  
3760 retire under each of the retirement programs, based on  
3761 appropriate alternative sets of assumptions.

3762 4. The rate of return from investments in the defined  
3763 contribution program and the period of time over which such rate  
3764 of return must be achieved to equal or exceed the expected  
3765 monthly benefit payable to the member under the pension plan  
3766 ~~defined benefit program~~.

3767 5. The historical rates of return for the investment  
3768 alternatives available in the defined contribution programs.

3769 6. The benefits and historical rates of return on  
3770 investments available in a typical deferred compensation plan or  
3771 a typical plan under s. 403(b) of the Internal Revenue Code for  
3772 which the employee may be eligible.

3773 7. The program choices available to employees of the State  
3774 University System and the comparative benefits of each available  
3775 program, if applicable.

3776 8. Payout options available in each of the retirement  
3777 programs.

3778 (d) An ongoing education and communication component must  
3779 provide eligible employees ~~system members~~ with information  
3780 necessary to make informed decisions about choices within their

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3781 retirement system ~~program of membership~~ and in preparation for  
3782 retirement. The component must include, but is not limited to,  
3783 information concerning:

3784 1. Rights and conditions of membership.

3785 2. Benefit features within the program, options, and  
3786 effects of certain decisions.

3787 3. Coordination of contributions and benefits with a  
3788 deferred compensation plan under s. 457 or a plan under s.  
3789 403(b) of the Internal Revenue Code.

3790 4. Significant program changes.

3791 5. Contribution rates and program funding status.

3792 6. Planning for retirement.

3793 (e) Descriptive materials must be prepared under the  
3794 assumption that the employee is an unsophisticated investor, and  
3795 all materials used in the education component must be approved  
3796 by the state board prior to dissemination.

3797 (f) The state board and the department shall also  
3798 establish a communication component to provide program  
3799 information to participating employers and the employers'  
3800 personnel and payroll officers and to explain their respective  
3801 responsibilities in conjunction with the retirement programs.

3802 (g) Funding for education of new employees may reflect  
3803 administrative costs to the investment plan ~~optional program~~ and  
3804 the pension plan ~~defined benefit program~~.

3805 (h) Pursuant to subsection ~~paragraph~~ (8) ~~(a)~~, all Florida  
3806 Retirement System employers have an obligation to regularly  
3807 communicate the existence of the two Florida Retirement System  
3808 plans and the plan choice in the natural course of administering



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their personnel functions, using the educational materials supplied by the state board and the Department of Management Services.

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

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

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

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

(d) Itemize account contributions for the quarter.

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

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

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

(h) Indicate each investment product's performance relative to an appropriate market benchmark.

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3837  
3838 The third-party administrator shall provide quarterly and annual  
3839 summary reports to the state board and any other reports  
3840 requested by the department or the state board. In any  
3841 solicitation or offer of coverage under the investment plan ~~an~~  
3842 ~~optional retirement program~~, a provider company shall be  
3843 governed by the contract readability provisions of s. 627.4145,  
3844 notwithstanding s. 627.4145(6)(c). In addition, all descriptive  
3845 materials must be prepared under the assumption that the member  
3846 ~~participant~~ is an unsophisticated investor. Provider companies  
3847 must maintain an internal system of quality assurance, have  
3848 proven functional systems that are date-calculation compliant,  
3849 and be subject to a due-diligence inquiry that proves their  
3850 capacity and fitness to undertake service responsibilities.

3851 (12) ADVISORY COUNCIL TO PROVIDE ADVICE AND ASSISTANCE.—

3852 The Investment Advisory Council, created pursuant to s. 215.444,  
3853 shall assist the state board in implementing and administering  
3854 the investment plan ~~Public Employee Optional Retirement Program~~.  
3855 ~~The Investment Advisory council, created pursuant to s. 215.444,~~  
3856 shall review the state board's initial recommendations regarding  
3857 the criteria to be used in selecting and evaluating approved  
3858 providers and investment products. The council may provide  
3859 comments on the recommendations to the state board within 45  
3860 days after receiving the initial recommendations. The state  
3861 board shall make the final determination as to whether any  
3862 investment provider or product, any contractor, or any and all  
3863 contract provisions are ~~shall be~~ approved for the investment  
3864 plan ~~program~~.

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(13) FEDERAL REQUIREMENTS.—

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

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

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

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Optional Retirement Program shall be considered primary for any aggregate limitation applicable under s. 415 of the Internal Revenue Code.

(14) INVESTMENT POLICY STATEMENT.—

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

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

(15) STATEMENT OF FIDUCIARY STANDARDS AND RESPONSIBILITIES.—

(a) Investment of ~~optional~~ defined contribution ~~retirement~~ plan assets shall be made for the sole interest and exclusive

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3921 purpose of providing benefits to members ~~plan participants~~ and  
3922 beneficiaries and defraying reasonable expenses of administering  
3923 the plan. The program's assets shall ~~are to~~ be invested, on  
3924 behalf of the program members ~~participants~~, with the care,  
3925 skill, and diligence that a prudent person acting in a like  
3926 manner would undertake. The performance of the investment duties  
3927 set forth in this paragraph shall comply with the fiduciary  
3928 standards set forth in the Employee Retirement Income Security  
3929 Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). In case of  
3930 conflict with other provisions of law authorizing investments,  
3931 the investment and fiduciary standards set forth in this  
3932 subsection shall prevail.

3933 (b) If a member ~~participant~~ or beneficiary of the  
3934 investment plan ~~Public Employee Optional Retirement Program~~  
3935 exercises control over the assets in his or her account, as  
3936 determined by reference to regulations of the United States  
3937 Department of Labor under s. 404(c) of the Employee Retirement  
3938 Income Security Act of 1974 and all applicable laws governing  
3939 the operation of the program, a no program fiduciary is not  
3940 ~~shall be~~ liable for any loss to a member's ~~participant's~~ or  
3941 beneficiary's account which results from the member's ~~such~~  
3942 ~~participant's~~ or beneficiary's exercise of control.

3943 (c) Subparagraph (8)(b) 2.4. ~~and paragraph (15)~~ (b)  
3944 incorporate the federal law concept of participant control,  
3945 established by regulations of the United States Department of  
3946 Labor under s. 404(c) of the Employee Retirement Income Security  
3947 Act of 1974 (ERISA). The purpose of this paragraph is to assist  
3948 employers and the state board ~~of Administration~~ in maintaining

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3949 compliance with s. 404(c), while avoiding unnecessary costs and  
3950 eroding member ~~participant~~ benefits under the investment plan  
3951 ~~Public Employee Optional Retirement Program~~. Pursuant to 29  
3952 C.F.R. s. 2550.404c-1(b)(2)(i)(B)(1)(viii), the state board ~~of~~  
3953 ~~Administration~~ or its designated agents shall deliver to members  
3954 ~~participants~~ of the investment plan ~~Public Employee Optional~~  
3955 ~~Retirement Program~~ a copy of the prospectus most recently  
3956 provided to the plan, and, pursuant to 29 C.F.R. s. 2550.404c-  
3957 1(b)(2)(i)(B)(2)(ii), shall provide such members ~~participants~~ an  
3958 opportunity to obtain this information, except that:

3959 1. The requirement to deliver a prospectus shall be ~~deemed~~  
3960 ~~to be~~ satisfied by delivery of a fund profile or summary profile  
3961 that contains the information that would be included in a  
3962 summary prospectus as described by Rule 498 under the Securities  
3963 Act of 1933, 17 C.F.R. s. 230.498. ~~If when~~ the transaction fees,  
3964 expense information or other information provided by a mutual  
3965 fund in the prospectus does not reflect terms negotiated by the  
3966 state board ~~of Administration~~ or its designated agents, the  
3967 ~~forementioned~~ requirement is ~~deemed to be~~ satisfied by delivery  
3968 of a separate document described by Rule 498 substituting  
3969 accurate information; and

3970 2. Delivery shall be ~~deemed to have been~~ effected if  
3971 delivery is through electronic means and the following standards  
3972 are satisfied:

3973 a. Electronically-delivered documents are prepared and  
3974 provided consistent with style, format, and content requirements  
3975 applicable to printed documents;

3976 b. Each member ~~participant~~ is provided timely and adequate

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notice of the documents that are to be delivered, and their significance thereof, and of the member's ~~participant's~~ right to obtain a paper copy of such documents free of charge;

c.~~(I)~~ Members ~~Participants~~ have adequate access to the electronic documents, at locations such as their worksites or public facilities, and have the ability to convert the documents to paper free of charge by the state board ~~of Administration~~, and the board or its designated agents take appropriate and reasonable measures to ensure that the system for furnishing electronic documents results in actual receipt.~~, or~~

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

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

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

(17) SOCIAL SECURITY COVERAGE.—Social security coverage shall be provided for all officers and employees who become members ~~participants~~ of the investment plan ~~optional program~~. Any modification of the present agreement with the Social Security Administration, or referendum required under the Social Security Act, for the purpose of providing social security coverage for any member shall be requested by the state agency in compliance with the applicable provisions of the Social

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Security Act governing such coverage. However, retroactive social security coverage for service prior to December 1, 1970, with the employer may ~~shall~~ not be provided for any member who was not covered under the agreement as of November 30, 1970.

(18) RETIREE HEALTH INSURANCE SUBSIDY.—All officers and employees who are members ~~participants~~ of the investment plan ~~are optional program~~ shall be eligible to receive the retiree health insurance subsidy, subject to the provisions of s. 112.363.

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

(20) DESIGNATION OF BENEFICIARIES.—

(a) Each member ~~participant~~ may, by electronic means or on a form provided for that purpose, signed and filed with the third-party administrator, designate a choice of one or more persons, named sequentially or jointly, as his or her beneficiary for receiving ~~who shall receive~~ the benefits, if any, which may be payable pursuant to this chapter in the event of the member's ~~participant's~~ death. If no beneficiary is named in this manner, or if no beneficiary designated by the member ~~participant~~ survives the member ~~participant~~, the beneficiary shall be the spouse of the deceased, if living. If the member's ~~participant's~~ spouse is not alive at the time of the



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beneficiary's ~~his or her~~ death, the beneficiary shall be the living children of the member ~~participant~~. If no children survive, the beneficiary shall be the member's ~~participant's~~ father or mother, if living; otherwise, the beneficiary shall be the member's ~~participant's~~ estate. The beneficiary most recently designated by a member ~~participant~~ ~~on a form or letter filed with the third party administrator~~ shall be the beneficiary entitled to any benefits payable at the time of the member's ~~participant's~~ death. ~~However Notwithstanding any other provision in this subsection to the contrary,~~ for a member ~~participant~~ who dies prior to his or her effective date of retirement, the spouse at the time of death shall be the member's ~~participant's~~ beneficiary unless the member ~~such participant~~ designates a different beneficiary ~~as provided in this subsection~~ subsequent to the member's ~~participant's~~ most recent marriage.

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

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

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4061 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT  
4062 OPTION PROGRAM MEMBERS ~~PARTICIPANTS~~.—Notwithstanding any other  
4063 provision of law ~~to the contrary~~, members ~~participants~~ in the  
4064 Deferred Retirement Option Program offered under part I may,  
4065 after conclusion of their participation in the program, elect to  
4066 roll over or authorize a direct trustee-to-trustee transfer to  
4067 an account under the investment plan ~~Public Employee Optional~~  
4068 ~~Retirement Program~~ of their Deferred Retirement Option Program  
4069 proceeds distributed as provided under s. 121.091(13)(c)5. The  
4070 transaction must constitute an "eligible rollover distribution"  
4071 within the meaning of s. 402(c)(4) of the Internal Revenue Code.

4072 (a) The investment plan ~~Public Employee Optional~~  
4073 ~~Retirement Program~~ may accept such amounts for deposit into  
4074 member ~~participant~~ accounts as provided in paragraph (5) ~~(e)(e)~~.

4075 (b) The affected member ~~participant~~ shall direct the  
4076 investment of his or her investment account; however, unless he  
4077 or she becomes a renewed member of the Florida Retirement System  
4078 under s. 121.122 and elects to participate in the investment  
4079 plan ~~Public Employee Optional Retirement Program~~, no ~~employer~~  
4080 contributions may ~~not~~ be made to the member's ~~participant's~~  
4081 account as provided under paragraph (5)(a).

4082 (c) The state board or the department is not responsible  
4083 for locating those persons who may be eligible to participate in  
4084 the investment plan ~~Public Employee Optional Retirement Program~~  
4085 under this subsection.

4086 (22) CREDIT FOR MILITARY SERVICE.—Creditable service of  
4087 any member of the investment plan ~~includes~~ ~~Public Employee~~  
4088 ~~Optional Retirement Program~~ shall include military service in

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the Armed Forces of the United States as provided in ~~the~~  
~~conditions outlined in s. 121.111(1).~~

Section 20. Section 121.4502, Florida Statutes, is amended  
to read:

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

(1) The Florida Retirement System Investment Plan ~~Public~~  
~~Employee Optional Retirement Program~~ Trust Fund is created to  
hold the assets of the Florida Retirement System Investment Plan  
~~Public Employee Optional Retirement Program~~ in trust for the  
exclusive benefit of such program's members ~~participants~~ and  
beneficiaries, and for the payment of reasonable administrative  
expenses of the program, in accordance with s. 401 of the  
Internal Revenue Code, and shall be administered by the state  
board ~~of Administration~~ as trustee. Funds shall be credited to  
the trust fund as provided in this part, to be used for the  
purposes of this part. The trust fund is exempt from the service  
charges imposed by s. 215.20.

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

(3) A forfeiture account shall be created within the  
Florida Retirement System Investment Plan ~~Public Employee~~

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4117 ~~Optional Retirement Program~~ Trust Fund to hold the assets  
4118 derived from the forfeiture of benefits by participants.  
4119 Pursuant to a private letter ruling from the Internal Revenue  
4120 Service, the forfeiture account may be used only for paying  
4121 expenses of the Florida Retirement System Investment Plan ~~Public~~  
4122 ~~Employee Optional Retirement Program~~ and reducing future  
4123 employer contributions to the program. Consistent with Rulings  
4124 80-155 and 74-340 of the Internal Revenue Service, unallocated  
4125 reserves within the forfeiture account must be used as quickly  
4126 and as prudently as possible considering the state board's  
4127 fiduciary duty. Expected withdrawals from the account must  
4128 endeavor to reduce the account to zero each fiscal year.

4129 Section 21. Subsections (1) and (3) of section 121.4503,  
4130 Florida Statutes, are amended to read:

4131 121.4503 Florida Retirement System Contributions Clearing  
4132 Trust Fund.—

4133 (1) The Florida Retirement System Contributions Clearing  
4134 Trust Fund is created as a clearing fund for disbursing employee  
4135 and employer contributions to the component plans of the Florida  
4136 Retirement System and shall be administered by the Department of  
4137 Management Services. Funds shall be credited to the trust fund  
4138 as provided in this chapter and shall be held in trust for the  
4139 contributing members and employers until such time as the assets  
4140 are transferred by the department to the Florida Retirement  
4141 System Trust Fund, the Florida Retirement System Investment Plan  
4142 ~~Public Employee Optional Retirement Program~~ Trust Fund, or other  
4143 trust funds as authorized by law, to be used for the purposes of  
4144 this chapter. The trust fund is exempt from the service charges

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imposed by s. 215.20.

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

Section 22. Section 121.571, Florida Statutes, is amended to read:

121.571 Contributions.—Contributions to the investment plan ~~Public Employee Optional Retirement Program~~ shall be made as follows:

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

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

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

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4173 Section 23. Section 121.591, Florida Statutes, is amended  
4174 to read:

4175 121.591 Payment of benefits ~~payable under the Public~~  
4176 ~~Employee Optional Retirement Program of the Florida Retirement~~  
4177 ~~System.~~ Benefits may not be paid under the Florida Retirement  
4178 System Investment Plan ~~this section~~ unless the member has  
4179 terminated employment as provided in s. 121.021(39)(a) or is  
4180 deceased and a proper application has been filed as in the  
4181 ~~manner~~ prescribed by the state board or the department. Benefits  
4182 are not payable under the investment plan before termination of  
4183 employment as provided in s. 121.021(39)(a) for employee  
4184 hardships, unforeseeable emergencies, loans, medical expenses,  
4185 educational expenses, purchase of a principal residence,  
4186 payments necessary to prevent eviction or foreclosure on an  
4187 employee's principal residence, or any other reason prior to  
4188 termination from all employment relationships with participating  
4189 employers. The state board or department, as appropriate, may  
4190 cancel an application for retirement benefits if ~~when~~ the member  
4191 or beneficiary fails to timely provide the information and  
4192 documents required by this chapter and the rules of the state  
4193 board and department. In accordance with their respective  
4194 responsibilities ~~as provided herein,~~ the state board ~~of~~  
4195 ~~Administration~~ and the department ~~of Management Services~~ shall  
4196 adopt rules establishing procedures for application for  
4197 retirement benefits and for the cancellation of such application  
4198 if ~~when~~ the required information or documents are not received.  
4199 The state board ~~of Administration~~ and the department ~~of~~  
4200 ~~Management Services,~~ as appropriate, are authorized to cash out

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4201 a de minimis account of a member ~~participant~~ who has been  
4202 terminated from Florida Retirement System covered employment for  
4203 a minimum of 6 calendar months. A de minimis account is an  
4204 account containing member and employer contributions and  
4205 accumulated earnings of not more than \$5,000 made under the  
4206 provisions of this chapter. Such cash-out must either be a  
4207 complete lump-sum liquidation of the account balance, subject to  
4208 the provisions of the Internal Revenue Code, or a lump-sum  
4209 direct rollover distribution paid directly to the custodian of  
4210 an eligible retirement plan, as defined by the Internal Revenue  
4211 Code, on behalf of the member ~~participant~~. Any nonvested  
4212 accumulations and associated service credit, including amounts  
4213 transferred to the suspense account of the Florida Retirement  
4214 System Investment Plan Trust Fund authorized under s.  
4215 121.4501(6), shall be forfeited upon payment of any vested  
4216 benefit to a member or beneficiary, except for de minimis  
4217 distributions or minimum required distributions as provided  
4218 under this section. If any financial instrument issued for the  
4219 payment of retirement benefits under this section is not  
4220 presented for payment within 180 days after the last day of the  
4221 month in which it was originally issued, the third-party  
4222 administrator or other duly authorized agent of the state board  
4223 ~~of Administration~~ shall cancel the instrument and credit the  
4224 amount of the instrument to the suspense account of the Florida  
4225 Retirement System Investment Plan ~~Public Employee Optional~~  
4226 ~~Retirement Program~~ Trust Fund authorized under s. 121.4501(6).  
4227 Any such amounts transferred to the suspense account are payable  
4228 upon a proper application, not to include earnings thereon, as

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provided in this section, within 10 years after the last day of the month in which the instrument was originally issued, after which time such amounts and any earnings attributable to employer contributions ~~thereon~~ shall be forfeited. Any such forfeited amounts are assets of the Florida Retirement System Investment Plan ~~Public Employee Optional Retirement Program~~ Trust Fund and are not subject to the provisions of chapter 717.

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

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

1. ~~To the extent vested,~~ Benefits are payable only to a member, an alternate payee of a qualified domestic relations order, or a beneficiary participant.

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

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

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



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4257           5. If a member or former member of the Florida Retirement  
4258 System receives an invalid distribution ~~from the Public Employee~~  
4259 ~~Optional Retirement Program Trust Fund~~, such person must either  
4260 repay the full amount ~~invalid distribution to the trust fund~~  
4261 within 90 days after receipt of final notification by the state  
4262 board or the third-party administrator that the distribution was  
4263 invalid, or, in lieu of repayment, the member must terminate  
4264 employment from all participating employers. If such person  
4265 fails to repay the full invalid distribution within 90 days  
4266 after receipt of final notification, the person may be deemed  
4267 retired from the investment plan ~~optional retirement program~~ by  
4268 the state board, ~~as provided pursuant to s. 121.4501(2)(k), and~~  
4269 is subject to s. 121.122. If such person is deemed retired ~~by~~  
4270 ~~the state board~~, any joint and several liability set out in s.  
4271 121.091(9)(d)2. is ~~becomes null and void~~, and the state board,  
4272 the department, or the employing agency is not liable for gains  
4273 on payroll contributions that have not been deposited to the  
4274 person's account in the investment plan ~~retirement program~~,  
4275 pending resolution of the invalid distribution. The member or  
4276 former member who has been deemed retired or who has been  
4277 determined by the state board to have taken an invalid  
4278 distribution may appeal the agency decision through the  
4279 complaint process as provided under s. 121.4501(9)(g)3. As used  
4280 in this subparagraph, the term "invalid distribution" means any  
4281 distribution from an account in the investment plan ~~optional~~  
4282 ~~retirement program~~ which is taken in violation of this section,  
4283 s. 121.091(9), or s. 121.4501.

4284           (b) If a member ~~participant~~ elects to receive his or her

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

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

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

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

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

(d) The distribution payment method selected by the member or beneficiary, and the retirement of the member or beneficiary, shall be final and irrevocable at the time a benefit distribution payment is cashed, deposited, or transferred to another financial institution. Any additional service that

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remains unclaimed at retirement may not be claimed or purchased,  
and the type of retirement may not be changed, except that if a  
member recovers from a disability, the member may subsequently  
request benefits under subsection (2).

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

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

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

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

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4341           2. If the member participant has retained retirement  
4342 credit ~~he or she had~~ earned under the pension plan defined  
4343 ~~benefit program of the Florida Retirement System~~ as provided in  
4344 s. 121.4501(3) ~~(b)~~, a sum representing the actuarial present  
4345 value of such credit within the Florida Retirement System Trust  
4346 Fund shall be reassigned by the division ~~of Retirement~~ from the  
4347 pension plan defined benefit program to the disability program  
4348 as implemented under this subsection and shall be deposited in  
4349 the disability account of the ~~Florida Retirement System~~ trust  
4350 fund. Such moneys must ~~shall~~ be ~~separately~~ accounted for  
4351 separately.

4352           (b) Disability retirement; entitlement.—

4353           1. A member participant of the investment plan Public  
4354 ~~Employee Optional Retirement Program~~ who becomes totally and  
4355 permanently disabled, as defined in paragraph (d) s.  
4356 ~~121.091(4) (b)~~, after completing 8 years of creditable service,  
4357 or a member participant who becomes totally and permanently  
4358 disabled in the line of duty regardless of ~~his or her~~ length of  
4359 service, is ~~shall be~~ entitled to a monthly disability benefit ~~as~~  
4360 ~~provided herein~~.

4361           2. In order for service to apply toward the 8 years of  
4362 creditable service required ~~to vest~~ for regular disability  
4363 benefits, or toward the creditable service used in calculating a  
4364 service-based benefit as provided ~~for~~ under paragraph (g), the  
4365 service must be creditable service as described below:

4366           a. The member's participant's period of service under the  
4367 investment plan shall Public Employee Optional Retirement  
4368 ~~Program will~~ be considered creditable service, except as

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provided in subparagraph d.

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

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

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

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

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

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employee.

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

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

(g) Computation of disability retirement benefit.—The amount of each monthly payment must ~~shall~~ be calculated ~~in the same manner as provided for members of the defined benefit program of the Florida Retirement System~~ under s. 121.091(4)(f). ~~For such purpose,~~ Creditable service under both the pension plan defined benefit program and the investment plan ~~Public Employee Optional Retirement Program of the Florida Retirement System~~ shall be applicable as provided under paragraph (b).

(h) Reapplication.—A member participant whose initial application for disability retirement is ~~has been~~ denied may reapply for disability benefits ~~in the same manner, and under~~

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4425 ~~the same conditions,~~ as provided for members of the defined  
4426 ~~benefit program of the Florida Retirement System~~ under s.  
4427 121.091(4)(g).

4428 (i) Membership.—Upon approval of a member's ~~an~~ application  
4429 for disability benefits ~~under this subsection,~~ the member  
4430 ~~applicant~~ shall be transferred to the pension plan ~~defined~~  
4431 ~~benefit program of the Florida Retirement System,~~ effective upon  
4432 his or her disability retirement effective date.

4433 (j) Option to cancel.—A member ~~Any participant~~ whose  
4434 application for disability benefits is approved may cancel the  
4435 ~~his or her~~ application ~~if for disability benefits, provided that~~  
4436 the cancellation request is received by the division before a  
4437 disability retirement warrant has been deposited, cashed, or  
4438 received by direct deposit. Upon ~~such~~ cancellation:

4439 1. The member's ~~participant's~~ transfer to the pension plan  
4440 ~~defined benefit program~~ under paragraph (i) shall be nullified;

4441 2. The member ~~participant~~ shall be retroactively  
4442 reinstated in the investment plan ~~Public Employee Optional~~  
4443 ~~Retirement Program~~ without hiatus;

4444 3. All funds transferred to the Florida Retirement System  
4445 Trust Fund under paragraph (a) must ~~shall~~ be returned to the  
4446 member ~~participant~~ accounts from which the ~~such~~ funds were  
4447 drawn; and

4448 4. The member ~~participant~~ may elect to receive the benefit  
4449 payable under ~~the provisions of~~ subsection (1) in lieu of  
4450 disability benefits ~~as provided under this subsection.~~

4451 (k) Recovery from disability.—

4452 1. The division may require periodic reexaminations at the

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4453 expense of the disability program account of the Florida  
4454 Retirement System Trust Fund. Except as ~~otherwise~~ provided in  
4455 subparagraph 2., ~~the requirements, procedures, and restrictions~~  
4456 ~~relating to the conduct and review of such reexaminations,~~  
4457 ~~discontinuation or termination of benefits, reentry into~~  
4458 ~~employment, disability retirement after reentry into covered~~  
4459 ~~employment, and~~ all other matters relating to recovery from  
4460 disability shall be ~~the same~~ as provided ~~are set forth~~ under s.  
4461 121.091(4) (h).

4462 2. Upon recovery from disability, the ~~any~~ recipient of  
4463 disability retirement benefits under this subsection shall be a  
4464 compulsory member of the investment plan ~~Public Employee~~  
4465 ~~Optional Retirement Program of the Florida Retirement System.~~  
4466 The net difference between the recipient's original account  
4467 balance transferred to the Florida Retirement System Trust Fund,  
4468 including earnings, ~~under paragraph (a)~~ and total disability  
4469 benefits paid to such recipient, if any, shall be determined as  
4470 provided in sub-subparagraph a.

4471 a. An amount equal to the total benefits paid shall be  
4472 subtracted from that portion of the transferred account balance  
4473 consisting of vested accumulations as described under s.  
4474 121.4501(6), if any, and an amount equal to the remainder of  
4475 benefit amounts paid, if any, shall ~~then~~ be subtracted from any  
4476 remaining ~~portion consisting of~~ nonvested accumulations ~~as~~  
4477 ~~described under s. 121.4501(6).~~

4478 b. Amounts subtracted under sub-subparagraph a. must ~~shall~~  
4479 be retained within the disability account of the Florida  
4480 Retirement System Trust Fund. Any remaining account balance



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shall be transferred to the third-party administrator for disposition as provided under sub-subparagraph c. or sub-subparagraph d., as appropriate.

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

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

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

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

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

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4509 (1) Nonadmissible causes of disability.—A member is  
4510 ~~participant shall not be~~ entitled to ~~receive~~ a disability  
4511 retirement benefit if the disability results from any injury or  
4512 disease ~~sustained or inflicted~~ as described in s. 121.091(4)(i).

4513 (m) Disability retirement of justice or judge by order of  
4514 Supreme Court.—

4515 1.a. If a member ~~participant~~ is a justice of the Supreme  
4516 Court, judge of a district court of appeal, circuit judge, or  
4517 judge of a county court who has served for 6 years or more as an  
4518 elected constitutional judicial officer, including service as a  
4519 judicial officer in any court abolished pursuant to Art. V of  
4520 the State Constitution, and who is retired for disability ~~by~~  
4521 ~~order of the Supreme Court upon recommendation of the Judicial~~  
4522 ~~Qualifications Commission~~ pursuant to s. 12, ~~the provisions of~~  
4523 Art. V of the State Constitution, the member's ~~participant's~~  
4524 Option 1 monthly disability benefit amount as provided in s.  
4525 121.091(6)(a)1. shall be two-thirds of his or her monthly  
4526 compensation as of the member's ~~participant's~~ disability  
4527 retirement date. The member ~~Such a participant~~ may alternatively  
4528 elect to receive an actuarially adjusted disability retirement  
4529 benefit under any other option as provided in s. 121.091(6)(a),  
4530 or to receive the normal benefit payable under ~~the Public~~  
4531 ~~Employee Optional Retirement Program as set forth in~~ subsection  
4532 (1). This sub-subparagraph applies to any member retiring prior  
4533 to July 1, 2011.

4534 b. Effective July 1, 2011, and applicable to any member  
4535 retiring on or after July 1, 2011, if a member is a justice of  
4536 the Supreme Court, judge of a district court of appeal, circuit

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4537 judge, or judge of a county court who has served for 6 years or  
4538 more as an elected constitutional judicial officer, including  
4539 service as a judicial officer in any court abolished pursuant to  
4540 Art. V of the State Constitution, and who is retired for  
4541 disability pursuant to s. 12, Art. V of the State Constitution,  
4542 the member's Option 1 monthly disability benefit amount as  
4543 provided in s. 121.091(6)(a)1. shall be one-third of his or her  
4544 monthly compensation as of the member's disability retirement  
4545 date. The member may alternatively elect to receive an  
4546 actuarially adjusted disability retirement benefit under any  
4547 other option as provided in s. 121.091(6)(a), or to receive the  
4548 normal benefit payable under subsection (1).

4549       2. If any justice or judge who is a member ~~participant~~ of  
4550 the investment plan ~~Public Employee Optional Retirement Program~~  
4551 ~~of the Florida Retirement System~~ is retired for disability ~~by~~  
4552 ~~order of the Supreme Court upon recommendation of the Judicial~~  
4553 ~~Qualifications Commission pursuant to s. 12, the provisions of~~  
4554 Art. V of the State Constitution and elects to receive a monthly  
4555 disability benefit under the provisions of this paragraph:

4556       a. Any present value amount that was transferred to his or  
4557 her investment plan ~~program~~ account and all employee and  
4558 employer contributions made to such account on his or her  
4559 behalf, plus interest and earnings thereon, must ~~shall~~ be  
4560 transferred to and deposited in the disability account of the  
4561 Florida Retirement System Trust Fund; and

4562       b. The monthly disability benefits payable under this  
4563 paragraph ~~for any affected justice or judge retired from the~~  
4564 ~~Florida Retirement System pursuant to Art. V of the State~~

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4565 ~~Constitution~~ shall be paid from the disability account of the  
4566 Florida Retirement System Trust Fund.

4567 (n) Death of retiree or beneficiary.—Upon the death of a  
4568 disabled retiree or beneficiary of the retiree ~~thereof~~ who is  
4569 receiving monthly disability benefits under this subsection, the  
4570 monthly benefits shall be paid through the last day of the month  
4571 of death and shall terminate, or be adjusted, if applicable, as  
4572 of that date in accordance with the optional form of benefit  
4573 selected at the time of retirement. The department ~~of Management~~  
4574 ~~Services~~ may adopt rules necessary to administer this paragraph.

4575 (3) DEATH BENEFITS.—Under the investment plan ~~Public~~  
4576 ~~Employee Optional Retirement Program~~:

4577 (a) Survivor benefits are ~~shall be~~ payable in accordance  
4578 with the following terms and conditions:

4579 1. To the extent vested, benefits are ~~shall be~~ payable  
4580 only to a member's ~~participant's~~ beneficiary or beneficiaries as  
4581 designated by the member ~~participant~~ as provided in s.  
4582 121.4501(20).

4583 2. Benefits shall be paid by the third-party administrator  
4584 or designated approved providers in accordance with the law, the  
4585 contracts, and any applicable state board rule or policy.

4586 3. To receive benefits under this subsection, the member  
4587 ~~participant~~ must be deceased.

4588 (b) In the event of a member's ~~participant's~~ death, all  
4589 vested accumulations as described in s. 121.4501(6), less  
4590 withholding taxes remitted to the Internal Revenue Service,  
4591 shall be distributed, as provided in paragraph (c) or as  
4592 described in s. 121.4501(20), as if the member ~~participant~~

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4593 retired on the date of death. No other death benefits are ~~shall~~  
4594 ~~be~~ available for survivors of members ~~participants~~ under the  
4595 ~~Public Employee Optional Retirement Program~~, except for such  
4596 benefits, or coverage for ~~such~~ benefits, as are otherwise  
4597 provided by law or ~~are~~ separately provided ~~afforded~~ by the  
4598 employer, at the employer's discretion.

4599 (c) Upon receipt by the third-party administrator of a  
4600 properly executed application for distribution of benefits, the  
4601 total accumulated benefit is ~~shall be~~ payable by the third-party  
4602 administrator to the member's ~~participant's~~ surviving  
4603 beneficiary or beneficiaries, as:

4604 1. A lump-sum distribution payable to the beneficiary or  
4605 beneficiaries, or to the deceased member's ~~participant's~~ estate;

4606 2. An eligible rollover distribution, if permitted, on  
4607 behalf of the surviving spouse of a deceased member ~~participant~~,  
4608 whereby all accrued benefits, plus interest and investment  
4609 earnings, are paid from the deceased member's ~~participant's~~  
4610 account directly to the custodian of an eligible retirement  
4611 plan, as described in s. 402(c)(8)(B) of the Internal Revenue  
4612 Code, on behalf of the surviving spouse; or

4613 3. A partial lump-sum payment whereby a portion of the  
4614 accrued benefit is paid to the deceased member's ~~participant's~~  
4615 surviving spouse or other designated beneficiaries, less  
4616 withholding taxes remitted to the Internal Revenue Service, and  
4617 the remaining amount is transferred directly to the custodian of  
4618 an eligible retirement plan, if permitted, as described in s.  
4619 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
4620 surviving spouse. The proportions must be specified by the

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4621 member ~~participant~~ or the surviving beneficiary.

4622  
4623 This paragraph does not abrogate other applicable provisions of  
4624 state or federal law providing for payment of death benefits.

4625 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to  
4626 any person under the investment plan ~~Public Employee Optional~~  
4627 ~~Retirement Program~~, and any contributions accumulated under the  
4628 investment plan ~~such program~~, are not subject to assignment,  
4629 execution, attachment, or any legal process, except for  
4630 qualified domestic relations orders by a court of competent  
4631 jurisdiction, income deduction orders as provided in s. 61.1301,  
4632 and federal income tax levies.

4633 Section 24. Section 121.5911, Florida Statutes, is amended  
4634 to read:

4635 121.5911 Disability retirement program; qualified status;  
4636 rulemaking authority.—It is the intent of the Legislature that  
4637 the disability retirement program for members ~~participants~~ of  
4638 the investment plan ~~Public Employee Optional Retirement Program~~  
4639 ~~as created in this act must~~ meet all applicable requirements of  
4640 federal law for a qualified plan. The department ~~of Management~~  
4641 ~~Services~~ shall seek a private letter ruling from the Internal  
4642 Revenue Service on the disability retirement program ~~for~~  
4643 ~~participants of the Public Employee Optional Retirement Program.~~  
4644 Consistent with the private letter ruling, the department ~~of~~  
4645 ~~Management Services~~ shall adopt ~~any necessary~~ rules necessary  
4646 ~~required~~ to maintain the qualified status of the disability  
4647 retirement program and the Florida Retirement System pension  
4648 ~~defined benefit~~ plan.

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Section 25. Section 121.70, Florida Statutes, is amended to read:

121.70 Legislative purpose and intent.—

(1) This part provides for a uniform system for funding benefits provided under the Florida Retirement System Pension Plan ~~defined benefit program~~ established under part I of this chapter (referred to in this part as the pension plan ~~defined benefit program~~) and under the Florida Retirement System Investment Plan ~~Public Employee Optional Retirement Program~~ established under part II of this chapter (referred to in this part as the investment plan ~~optional retirement program~~). The Legislature recognizes and declares that the Florida Retirement System is a single retirement system, consisting of two retirement plans and other nonintegrated programs. Employees and employers participating in the Florida Retirement System collectively shall be responsible for making contributions to support the benefits provided ~~afforded~~ under both plans. The employees and ~~As provided in this part,~~ employers ~~participating in the Florida Retirement System~~ shall make contributions based upon uniform contribution rates determined as a percentage of the employee's gross monthly compensation ~~total payroll~~ for the employee's ~~each~~ class or subclass of Florida Retirement System membership, irrespective of the ~~which~~ retirement plan in which the individual employee is enrolled ~~employees may elect~~. This shall be known as a uniform or blended contribution rate system.

(2) In establishing a uniform contribution rate system, it is the intent of the Legislature to:

(a) Provide greater stability and certainty in financial

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4677 planning and budgeting for Florida Retirement System employers  
4678 by eliminating the fiscal instability that would be caused by  
4679 dual rates coupled with employee-selected plan participation;

4680 (b) Provide greater fiscal equity and uniformity for  
4681 system employers by effectively distributing the financial  
4682 burden and benefit of short-term system deficits and surpluses,  
4683 respectively, in proportion to total system payroll; and

4684 (c) Allow employees to make their retirement plan  
4685 selection decisions free of circumstances that may cause  
4686 employers to favor one plan choice over another.

4687 Section 26. Section 121.71, Florida Statutes, is amended  
4688 to read:

4689 121.71 Uniform rates; process; calculations; levy.—

4690 (1) In conducting the system actuarial study required  
4691 under s. 121.031, the actuary shall follow all requirements  
4692 specified ~~thereunder~~ to determine, by Florida Retirement System  
4693 employee membership class, the dollar contribution amounts  
4694 necessary for the next ~~forthcoming~~ fiscal year for the pension  
4695 plan ~~defined benefit program~~. In addition, the actuary shall  
4696 determine, by Florida Retirement System membership class, based  
4697 on an estimate for the next ~~forthcoming~~ fiscal year of the gross  
4698 compensation of employees participating in the investment plan  
4699 ~~optional retirement program~~, the dollar contribution amounts  
4700 necessary to make the allocations required under ss. 121.72 and  
4701 121.73. For each employee membership class and subclass, the  
4702 actuarial study must ~~shall~~ establish a uniform rate necessary to  
4703 fund the benefit obligations under both Florida Retirement  
4704 System retirement plans by dividing the sum of total dollars



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4705 required by the estimated gross compensation of members in both  
4706 plans.

4707 (2) Based on the uniform rates set forth in subsections  
4708 ~~subsection~~ (3), (4), and (5), employees and employers shall make  
4709 monthly contributions to the Division of Retirement as required  
4710 in s. 121.061(1), which shall initially deposit the funds into  
4711 the Florida Retirement System Contributions Clearing Trust Fund.  
4712 A change in a contribution rate is effective the first day of  
4713 the month for which a full month's employee and employer  
4714 contribution may be made on or after the beginning date of the  
4715 change. Beginning July 1, 2011, each employee shall contribute  
4716 the contributions required in subsection (3). The employer shall  
4717 deduct the contribution from the employee's monthly salary, and  
4718 the contribution shall be submitted to the Division of  
4719 Retirement. These contributions shall be reported as employer-  
4720 paid employee contributions, and shall be credited to the  
4721 account of the employee. The contributions shall be deducted  
4722 from the employee's salary before the computation of applicable  
4723 federal taxes and shall be treated as employer contributions  
4724 under 26 U.S.C. s. 414(h) (2). The contributions, although  
4725 designated as employee contributions, are being paid by the  
4726 employers in lieu of contributions by the employee. The employee  
4727 shall not have the option of choosing to receive the contributed  
4728 amounts directly instead of having them paid by the employer to  
4729 the plan. Such contributions are mandatory and each employee  
4730 shall be considered to consent to payroll deductions. Payment of  
4731 an employee's salary or wages, less the contribution, is a full  
4732 and complete discharge and satisfaction of all claims and

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demands for the service rendered by employees during the period covered by the payment, except their claims to the benefits to which they may be entitled under the provisions of this chapter.

(3) Required employee retirement contribution rates for each membership class of the Florida Retirement System for both retirement plans are as follows:

| <u>Membership Class</u>                          | <u>Percentage of Gross Compensation,<br/>Effective July 1, 2011</u> |
|--|---|
| <u>Regular Class</u>                             | <u>5.00%</u>  |
| <u>Special Risk Class</u>                        | <u>5.00%</u>  |
| <u>Special Risk Administrative Support Class</u> | <u>5.00%</u>  |
| <u>Elected Officers' Class</u>                   | <u>5.00%</u>  |
| <u>Senior Management Class</u>                   | <u>5.00%</u>  |
| <u>DROP</u>                                      | <u>0.00%</u>  |

~~(4)-(3)~~ Required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows:

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|      | Membership Class   | Percentage of<br>Gross<br>Compensation,<br>Effective<br>July 1, <u>2011</u><br><del>2009</del> | <del>Percentage of<br/>Gross<br/>Compensation,<br/>Effective<br/>July 1, 2010</del> |
|------|--|--|---|
| 4750 |  |  |   |
| 4751 |  |  |   |
| 4752 | Regular Class  | <u>5.23%</u> <del>8.69%</del>  | <del>9.63%</del>  |
| 4753 | Special Risk Class   | <u>11.63%</u> <del>19.76%</del>  | <del>22.11%</del>   |
|      | Special Risk<br>Administrative<br>Support Class  | <u>6.39%</u> <del>11.39%</del>   | <del>12.10%</del>   |
| 4754 |  |  |   |
|      | Elected Officers' Class—<br>Legislators, Governor,<br>Lt. Governor,<br>Cabinet Officers,<br>State Attorneys,<br>Public Defenders | <u>5.95%</u> <del>13.32%</del>   | <del>15.20%</del>   |
| 4755 |  |  |   |
| 4756 | Elected Officers' Class—<br>Justices, Judges   | <u>7.26%</u> <del>18.40%</del>   | <del>20.65%</del>   |

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|                          |              |                   |                   |
|--------------------------|--------------|-------------------|-------------------|
| Elected Officers' Class— | <u>7.09%</u> | <del>15.37%</del> | <del>17.50%</del> |
| County Elected Officers  |              |                   |                   |

|                         |              |                   |                   |
|-------------------------|--------------|-------------------|-------------------|
| Senior Management Class | <u>5.63%</u> | <del>11.96%</del> | <del>13.43%</del> |
|-------------------------|--------------|-------------------|-------------------|

|      |               |                  |                   |
|------|---------------|------------------|-------------------|
| DROP | <u>11.14%</u> | <del>9.80%</del> | <del>11.14%</del> |
|------|---------------|------------------|-------------------|

(5) In order to address unfunded actuarial liabilities of the system, the required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows:

| <u>Membership Class</u> | <u>Percentage of</u><br><u>Gross</u><br><u>Compensation,</u><br><u>Effective</u><br><u>July 1, 2011</u> | <u>Percentage of</u><br><u>Gross</u><br><u>Compensation,</u><br><u>Effective</u><br><u>July 1, 2013</u> |
|-------------------------|---|---|
|-------------------------|---|---|

|                      |              |              |
|----------------------|--------------|--------------|
| <u>Regular Class</u> | <u>0.00%</u> | <u>1.94%</u> |
|----------------------|--------------|--------------|

|                           |              |              |
|---------------------------|--------------|--------------|
| <u>Special Risk Class</u> | <u>0.00%</u> | <u>5.80%</u> |
|---------------------------|--------------|--------------|

|  |              |              |
|--|--------------|--------------|
| <u>Special Risk Administrative</u><br><u>Support Class</u> | <u>0.00%</u> | <u>5.80%</u> |
|--|--------------|--------------|

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|                                 |              |               |
|---------------------------------|--------------|---------------|
| <u>Elected Officers' Class—</u> | <u>0.00%</u> | <u>19.39%</u> |
| <u>Legislators, Governor,</u>   |              |               |
| <u>Lt. Governor,</u>            |              |               |
| <u>Cabinet Officers,</u>        |              |               |
| <u>State Attorneys,</u>         |              |               |
| <u>Public Defenders</u>         |              |               |

4770

|                                 |              |               |
|---------------------------------|--------------|---------------|
| <u>Elected Officers' Class—</u> | <u>0.00%</u> | <u>11.74%</u> |
| <u>Justices, Judges</u>         |              |               |

4771

|                                 |              |               |
|---------------------------------|--------------|---------------|
| <u>Elected Officers' Class—</u> | <u>0.00%</u> | <u>19.71%</u> |
| <u>County Elected Officers</u>  |              |               |

4772

|                                |              |              |
|--------------------------------|--------------|--------------|
| <u>Senior Management Class</u> | <u>0.00%</u> | <u>9.93%</u> |
|--------------------------------|--------------|--------------|

4773

|             |              |              |
|-------------|--------------|--------------|
| <u>DROP</u> | <u>0.00%</u> | <u>0.00%</u> |
|-------------|--------------|--------------|

4774

4775        (6) If a member is reported under an incorrect membership  
 4776 class and the amount of contributions reported and remitted are  
 4777 less than the amount required, the employer shall owe the  
 4778 difference, plus the delinquent fee, of 1 percent for each  
 4779 calendar month or part thereof that the contributions should  
 4780 have been paid. This delinquent assessment may not be waived. If  
 4781 the contributions reported and remitted are more than the amount  
 4782 required, the employer shall receive a credit to be applied  
 4783 against future contributions owed.

4784        (7)~~(4)~~ The state actuary shall recognize and use an  
 4785 appropriate level of available excess assets of the Florida

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Retirement System Trust Fund to offset the difference between the normal costs of the Florida Retirement System and the statutorily prescribed contribution rates.

Section 27. Section 121.72, Florida Statutes, is amended to read:

121.72 Allocations to investment plan member ~~optional retirement program participant~~ accounts; percentage amounts.—

(1) The allocations established in subsection (4) shall fund retirement benefits under the investment plan ~~optional retirement program~~ and shall be transferred monthly by the Division of Retirement from the Florida Retirement System Contributions Clearing Trust Fund to the third-party administrator for deposit in each participating employee's individual account based on the membership class of the participant.

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

(3) Employer and employee ~~participant~~ contributions to member ~~participant~~ accounts shall be accounted for separately. ~~Participant contributions may be made only if expressly authorized by law.~~ Interest and investment earnings on contributions shall accrue on a tax-deferred basis until

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proceeds are distributed.

(4) (a) Effective July 1, 2002, through June 30, 2011,  
allocations from the Florida Retirement System Contributions  
Clearing Trust Fund to investment plan member ~~optional~~  
~~retirement program participant~~ accounts shall be as follows:

| Membership Class | Percentage of<br>Gross<br>Compensation |
|------------------|--|
|------------------|--|

|               |       |
|---------------|-------|
| Regular Class | 9.00% |
|---------------|-------|

|                    |        |
|--------------------|--------|
| Special Risk Class | 20.00% |
|--------------------|--------|

|   |        |
|---|--------|
| Special Risk Administrative Support Class | 11.35% |
|---|--------|

|                          |        |
|--------------------------|--------|
| Elected Officers' Class— | 13.40% |
|--------------------------|--------|

Legislators, Governor,  
Lt. Governor, Cabinet Officers,  
State Attorneys, Public Defenders

|                          |        |
|--------------------------|--------|
| Elected Officers' Class— | 18.90% |
|--------------------------|--------|

Justices, Judges

|                          |        |
|--------------------------|--------|
| Elected Officers' Class— | 16.20% |
|--------------------------|--------|

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County Elected Officers

Senior Management Service Class 10.95%

(b) Effective July 1, 2011, allocations from the Florida Retirement System Contributions Clearing Trust Fund to investment plan member accounts, which includes employee contributions as required in s. 121.71(3), shall be 11.25 percent of gross compensation for a member in the Special Risk Class and 9 percent of gross compensation for members in all other classes.

Section 28. Section 121.73, Florida Statutes, is amended to read:

121.73 Allocations for member ~~optional retirement program participant~~ disability coverage; percentage amounts.—

(1) The allocations established in subsection (3) shall be used to provide disability coverage for members ~~participants~~ in the investment plan ~~optional retirement program~~ and shall be transferred monthly by the Division of Retirement from the Florida Retirement System Contributions Clearing Trust Fund to the disability account of the Florida Retirement System Trust Fund.

(2) The allocations are stated as a percentage of each investment plan member's ~~optional retirement program participant's~~ gross compensation for the calendar month. A change in a contribution percentage is effective the first day of the month for which retirement contributions ~~a full month's employer contribution~~ may be made on or after the beginning date



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of the change. Contribution percentages may be modified by  
general law.

(3) (a) Effective July 1, 2002, through June 30, 2011,  
allocations from the Florida Retirement System Contributions ~~FRS~~  
~~Contribution~~ Clearing Trust Fund to provide disability coverage  
for members ~~participants~~ in the investment plan ~~optional~~  
~~retirement program~~, and to offset the costs of administering  
said coverage, shall be as follows:

| Membership Class | Percentage of<br>Gross<br>Compensation |
|------------------|--|
|------------------|--|

|               |       |
|---------------|-------|
| Regular Class | 0.25% |
|---------------|-------|

|                    |       |
|--------------------|-------|
| Special Risk Class | 1.33% |
|--------------------|-------|

|   |       |
|---|-------|
| Special Risk Administrative Support Class | 0.45% |
|---|-------|

|  |       |
|--|-------|
| Elected Officers' Class—<br>Legislators, Governor,<br>Lt. Governor, Cabinet Officers,<br>State Attorneys, Public Defenders | 0.41% |
|--|-------|

|                          |       |
|--------------------------|-------|
| Elected Officers' Class— | 0.73% |
|--------------------------|-------|

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Justices, Judges

Elected Officers' Class— 0.41%

County Elected Officers

Senior Management Service Class 0.26%

(b) Effective July 1, 2011, allocations from the Florida Retirement System Contributions Clearing Trust Fund to provide disability coverage for participants in the investment plan and to offset the costs of administering such coverage shall be the actuarially indicated amount necessary to fund the statutorily authorized benefit for the plan year as determined by the state actuary.

Section 29. Section 121.74, Florida Statutes, is amended to read:

121.74 Administrative and educational expenses.—In addition to contributions required under ss. ~~s.~~ 121.71 and 121.73, effective July 1, 2010, through June 30, 2013 ~~2014~~, employers participating in the Florida Retirement System shall contribute an amount equal to 0.03 percent of the payroll reported for each class or subclass of Florida Retirement System membership. ~~Effective July 1, 2013~~ 2014, the contribution rate shall be 0.04 percent of the payroll reported for each class or subclass of membership. The amount contributed shall be transferred by the Division of Retirement from the Florida Retirement System Contributions Clearing Trust Fund to the State Board of Administration's Administrative Trust Fund to offset

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the costs of administering the investment plan ~~optional retirement program~~ and the costs of providing educational services to members of the Florida Retirement System ~~participants in the defined benefit program and the optional retirement program~~. Approval of the trustees is required before the expenditure of these funds. Payments for third-party administrative or educational expenses shall be made only pursuant to the terms of the approved contracts for such services.

Section 30. Section 121.75, Florida Statutes, is amended to read:

121.75 Allocation for pension plan ~~defined benefit program~~.—After making the transfers required pursuant to ss. 121.71, 121.72, 121.73, and 121.74, the monthly balance of funds in the Florida Retirement System Contributions Clearing Trust Fund shall be transferred to the Florida Retirement System Trust Fund to pay the costs of providing pension plan ~~defined benefit program~~ benefits and plan administrative costs under the pension plan ~~defined benefit program~~.

Section 31. Section 121.77, Florida Statutes, is amended to read:

121.77 Deductions from member ~~participant~~ accounts.—The State Board of Administration may authorize the third-party administrator to deduct reasonable fees and apply appropriate charges to investment plan member ~~optional retirement program participant~~ accounts. In no event may ~~shall~~ administrative and educational expenses exceed the portion of employer contributions earmarked for such expenses under this part,

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except for reasonable administrative charges assessed against member ~~participant~~ accounts of persons for whom no employer contributions are made during the calendar quarter. Investment management fees shall be deducted from member ~~participant~~ accounts, pursuant to the terms of the contract between the provider and the board.

Section 32. Section 121.78, Florida Statutes, is amended to read:

121.78 Payment and distribution of contributions.—

(1) Contributions made pursuant to this part shall be paid by the employer, including the employee contribution, to the Division of Retirement by electronic funds transfer no later than the 5th working day of the month immediately following the month during which the payroll period ended. Accompanying payroll data must be transmitted to the division concurrent with the contributions.

(2) The division, the State Board of Administration, and the third-party administrator, as applicable, shall ensure that the contributions are distributed to the appropriate trust funds or participant accounts in a timely manner.

(3) (a) Employee and employer contributions and accompanying payroll data received after the 5th working day of the month are considered late. The employer shall be assessed by the Division of Retirement a penalty of 1 percent of the contributions due for each calendar month or part thereof that the contributions or accompanying payroll data are late. Proceeds from the 1-percent assessment against contributions made on behalf of members ~~participants~~ of the pension plan must

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4948 ~~defined benefit program shall~~ be deposited in the Florida  
4949 Retirement System Trust Fund, and proceeds from the 1-percent  
4950 assessment against contributions made on behalf of members  
4951 ~~participants~~ of the investment plan ~~optional retirement program~~  
4952 shall be transferred to the third-party administrator for  
4953 deposit into member ~~participant~~ accounts, as provided in  
4954 paragraph (c) ~~(b)~~.

4955 (b) Retirement contributions paid for a prior period shall  
4956 be charged a delinquent fee of 1 percent for each calendar month  
4957 or part thereof that the contributions should have been paid.  
4958 This includes prior period contributions due to incorrect wages  
4959 and contributions from an earlier report or wages and  
4960 contributions that should have been reported but were not. The  
4961 delinquent assessments may not be waived.

4962 (c) ~~(b)~~ If employee contributions or contributions made by  
4963 an employer on behalf of members ~~participants~~ of the investment  
4964 plan ~~optional retirement program~~ or accompanying payroll data  
4965 are not received within the calendar month they are due,  
4966 including, but not limited to, contribution adjustments as a  
4967 result of employer errors or corrections, and if that  
4968 delinquency results in market losses to members ~~participants~~,  
4969 the employer shall reimburse each member's ~~participant's~~ account  
4970 for market losses resulting from the late contributions. If a  
4971 member ~~participant~~ has terminated employment and taken a  
4972 distribution, the member ~~participant~~ is responsible for  
4973 returning any excess contributions erroneously provided by  
4974 employers, adjusted for any investment gain or loss incurred  
4975 during the period such excess contributions were in the member's

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4976 ~~participant's~~ account. The state board or its designated agent  
4977 shall communicate to terminated members ~~participants~~ any  
4978 obligation to repay such excess contribution amounts. However,  
4979 the state board, its designated agents, the Florida Retirement  
4980 System Investment Plan ~~Public Employee Optional Retirement~~  
4981 ~~Program~~ Trust Fund, the department, or the Florida Retirement  
4982 System Trust Fund may not incur any loss or gain as a result of  
4983 an employer's correction of such excess contributions. The  
4984 third-party administrator, hired by the state board pursuant to  
4985 s. 121.4501(8), shall calculate the market losses for each  
4986 affected member ~~participant~~. If contributions made on behalf of  
4987 members ~~participants~~ of the investment plan ~~optional retirement~~  
4988 ~~program~~ or accompanying payroll data are not received within the  
4989 calendar month due, the employer shall also pay the cost of the  
4990 third-party administrator's calculation and reconciliation  
4991 adjustments resulting from the late contributions. The third-  
4992 party administrator shall notify the employer of the results of  
4993 the calculations and the total amount due from the employer for  
4994 such losses and the costs of calculation and reconciliation. The  
4995 employer shall remit to the Division of Retirement the amount  
4996 due within 30 working days after the date of the penalty notice  
4997 sent by the division. The division shall transfer that amount to  
4998 the third-party administrator, which shall deposit proceeds from  
4999 the 1-percent assessment and from individual market losses into  
5000 member ~~participant~~ accounts, as appropriate. The state board may  
5001 adopt rules to administer the provisions regarding late  
5002 contributions, late submission of payroll data, the process for  
5003 reimbursing member ~~participant~~ accounts for resultant market

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losses, and the penalties charged to the employers.

(d) If employee contributions reported by an employer on behalf of members are reduced as a result of employer errors or corrections, and the member has terminated employment and taken a refund or distribution, the employer shall be billed and is responsible for recovering from the member any excess contributions erroneously provided by the employer.

(e)~~(e)~~ Delinquency fees specified in paragraph (a) may be waived by the Division of Retirement, with regard to pension plan ~~defined benefit program~~ contributions, and by the state board, with regard to investment plan ~~optional retirement program~~ contributions, only if, in the opinion of the division or the board, as appropriate, exceptional circumstances beyond the employer's control prevented remittance by the prescribed due date notwithstanding the employer's good faith efforts to effect delivery. Such a waiver of delinquency may be granted an employer only once each plan ~~state fiscal~~ year.

(f) If the employer submits excess employer or employee contributions, the employer shall receive a credit to be applied against future contributions owed. The employer is responsible for reimbursing the member for any excess contributions submitted if any return of such an erroneous excess pretax contribution by the program is made within 1 year after making erroneous contributions or such other period allowed under applicable Internal Revenue guidance.

(g)~~(d)~~ If contributions made by an employer on behalf of members ~~participants~~ in the investment plan ~~optional retirement program~~ are delayed in posting to member ~~participant~~ accounts

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5032 due to acts of God beyond the control of the Division of  
5033 Retirement, the state board, or the third-party administrator,  
5034 as applicable, market losses resulting from the late  
5035 contributions are not payable to the members ~~participants~~.

5036 Section 33. (1) Effective upon this act becoming a law,  
5037 the State Board of Administration and the Department of  
5038 Management Services shall request, as soon as practicable, a  
5039 determination letter and private letter ruling from the United  
5040 States Internal Revenue Service. If the United States Internal  
5041 Revenue Service refuses to act upon a request for a private  
5042 letter ruling, then a legal opinion from a qualified tax  
5043 attorney or firm may be substituted for such private letter  
5044 ruling.

5045 (2) If the board or the department receives notification  
5046 from the United States Internal Revenue Service that this act or  
5047 any portion of this act will cause the Florida Retirement  
5048 System, or a portion thereof, to be disqualified for tax  
5049 purposes under the Internal Revenue Code, then the portion that  
5050 will cause the disqualification does not apply. Upon such  
5051 notice, the state board and the department shall notify the  
5052 presiding officers of the Legislature.

5053 Section 34. The Legislature finds that a proper and  
5054 legitimate state purpose is served when employees and retirees  
5055 of the state and its political subdivisions, and the dependents,  
5056 survivors, and beneficiaries of such employees and retirees, are  
5057 extended the basic protections afforded by governmental  
5058 retirement systems. These persons must be provided benefits that  
5059 are fair and adequate and that are managed, administered, and



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5060 funded in an actuarially sound manner, as required by s. 14,  
5061 Article X of the State Constitution and part VII of chapter 112,  
5062 Florida Statutes. Therefore, the Legislature determines and  
5063 declares that this act fulfills an important state interest.

5064       Section 35. For the 2011-2012 fiscal year, the sums of  
5065 \$93,103 of recurring funds and \$534,000 of nonrecurring funds  
5066 from the Florida Retirement System Operating Trust Fund are  
5067 appropriated to, and two full-time equivalent positions are  
5068 authorized for, the Division of Retirement within the Department  
5069 of Management Services for the purpose of implementing this act.

5070       Section 36. Except as otherwise expressly provided in this  
5071 act, this act shall take effect July 1, 2011.