

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

CS/HB 1405

2011

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;

CS/HB 1405

2011

57        modifying the monthly benefit calculation for those  
58        members retiring on or after July 1, 2011, to reflect the  
59        change in normal retirement age; providing for the refund  
60        of 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. 121.121, F.S., relating to  
64        the purchase of creditable service following an authorized  
65        leave of absence; requiring that service credit be  
66        purchased at the employee and employer contribution rates  
67        in effect during the leave of absence effective a certain  
68        date; amending s. 121.125, F.S.; requiring that certain  
69        employers make the required employee and employer  
70        retirement contributions following an employee's workers'  
71        compensation injury or illness; requiring that a penalty  
72        be assessed against certain employers that fail to pay the  
73        required contributions; reenacting s. 121.161, F.S.,  
74        relating to the references of other laws as amended;  
75        amending s. 121.35, F.S., relating to the optional  
76        retirement program for the State University System;  
77        limiting the payment of benefits prior to a participant's  
78        termination of employment; amending s. 121.4501, F.S.;  
79        changing the name of the Public Employee Optional  
80        Retirement Program to the Florida Retirement System  
81        Investment Plan; requiring members of the Florida  
82        Retirement System Investment Plan to make certain  
83        contributions to the Florida Retirement System Investment  
84        Plan Trust Fund based on the employee's membership class;

CS/HB 1405

2011

85        revising and providing definitions; revising the benefit  
86        commencement age for a member enrolled on or after July 1,  
87        2011; providing for contribution adjustments as a result  
88        of employer errors or corrections; requiring an employer  
89        to receive a credit for excess contributions and to  
90        reimburse an employee for excess contributions, subject to  
91        certain limitations; providing for a pension plan  
92        participant to retain his or her prior plan choice  
93        following a return to employment; limiting certain refunds  
94        of contributions which exceed the amount that would have  
95        accrued had the member remained in the defined benefit  
96        program; providing certain requirements and limitations  
97        with respect to contributions; clarifying that participant  
98        and employer contributions are earmarked for specified  
99        purposes; providing duties of the third-party  
100       administrator; providing that a member is fully and  
101       immediately vested with respect to employee contributions  
102       paid by the member; providing for the forfeiture of  
103       nonvested employer contributions and service credit under  
104       certain circumstances; amending s. 121.4502, F.S.;  
105       changing the name of the Public Employee Optional  
106       Retirement Program Trust Fund to the Florida Retirement  
107       System Investment Plan Trust Fund; amending s. 121.4503,  
108       F.S.; providing for the deposit of participant  
109       contributions into the Florida Retirement System  
110       Contributions Clearing Trust Fund; amending s. 121.571,  
111       F.S.; providing requirements for submitting employee  
112       contributions; amending s. 121.591, F.S.; limiting the

CS/HB 1405

2011

113        payment of benefits prior to a participant's termination  
114        of employment; providing for the forfeiture of nonvested  
115        accumulations and service credits upon payment of certain  
116        vested benefits; providing that the distribution payment  
117        method selected by the participant or beneficiary is final  
118        and irrevocable at the time of benefit distribution;  
119        prohibiting a distribution of employee contributions if a  
120        qualified domestic relations order is filed against the  
121        participant's account; amending s. 121.5911, F.S.;  
122        conforming provisions to changes made by the act; amending  
123        s. 121.70, F.S.; revising legislative intent; amending s.  
124        121.71, F.S.; requiring that employee contributions be  
125        deducted from the employee's monthly salary, beginning on  
126        a specified date, and treated as employer contributions  
127        under certain provisions of federal law; clarifying that  
128        an employee may not receive such contributions directly;  
129        specifying the required employee retirement contribution  
130        rates for the membership of each membership class and  
131        subclass of the Florida Retirement System; specifying the  
132        required employer retirement contribution rates for each  
133        membership class and subclass of the Florida Retirement  
134        System in order to address unfunded actuarial liabilities  
135        of the system; requiring an assessment to be imposed if  
136        the employee contributions remitted are less than the  
137        amount required under certain circumstances; providing for  
138        the employer to receive a credit for excess contributions  
139        remitted and to apply such credit against future  
140        contributions owed; amending s. 121.72, F.S.; revising

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

CS/HB 1405

2011

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 employees.—

CS/HB 1405

2011

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

224       ~~(2)~~ For purposes of this section, the term "retiree" has



CS/HB 1405

2011

the same meaning as in s. 110.123(2). ~~means any 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 begins receiving retirement benefits immediately after retirement from employment. In addition to these requirements, any officer or employee who retires under the Public Employee Optional Retirement Program established under part II of chapter 121 shall be considered a "retired officer or employee" or "retiree" as used in this section if he or she:~~

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

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

112.363 Retiree health insurance subsidy.—

(2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—

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

1. For a member participant of the investment plan ~~Public Employee Optional Retirement Program~~ established under part II of chapter 121, the participant meets the age or service

CS/HB 1405

2011

requirements to qualify for normal retirement as set forth in s.  
121.021(29) and meets the definition of retiree in s.  
121.4501(2).

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

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

(3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

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

CS/HB 1405

2011

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 made ~~as required by law~~ for each month in the participant's work

CS/HB 1405

2011

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

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

333 2. Beginning July 1, 2011, each eligible participant of  
334 the investment plan of the Florida Retirement System who has met  
335 the requirements of this section, or, if the participant is  
336 deceased, his or her spouse who is the participant's designated

CS/HB 1405

2011

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 eligible retiree or  
beneficiary may not receive a subsidy payment of more than \$150  
or less than \$5. 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 shall be awarded for a full work year  
whenever health insurance subsidy contributions have been made  
for each month in the participant's work year. In addition, all  
years of creditable service retained under the Florida  
Retirement System pension plan must be included as creditable  
service for purposes of this section. Notwithstanding any other  
provision in this section, the spouse at the time of death is  
the participant's beneficiary unless such participant has  
designated a different beneficiary subsequent to the  
participant's most recent marriage.

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

(g) Service credit earned on or after July 1, 2011, may  
not be used toward the calculation of the amount of the retiree  
health insurance subsidy.

CS/HB 1405

2011

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

112.65 Limitation of benefits.—

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

Section 5. Subsections (3) and (15), paragraph (a) of subsection (19), paragraph (b) of subsection (22), and subsections (29), (38), (39), (55), and (59) of section 121.021, Florida Statutes, are amended to read:

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

(3) "System" means the general retirement system established by this chapter to be known and cited as the

CS/HB 1405

2011

393 "Florida Retirement System," including, but not limited to, the  
394 defined benefit ~~retirement~~ program administered under the  
395 ~~provisions of part I of this part,~~ referred to as the "Florida  
396 Retirement System Pension Plan" or "pension plan" ~~chapter~~ and  
397 the defined contribution ~~retirement~~ program ~~known as the Public~~  
398 ~~Employee Optional Retirement Program and~~ administered under the  
399 ~~provisions of part II of this chapter,~~ referred to as the  
400 "Florida Retirement System Investment Plan" or "investment  
401 plan".

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

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

417 ~~(b) Effective October 1, 1978, "special risk member" means~~  
418 ~~a member of the Florida Retirement System who is designated as a~~  
419 ~~special risk member by the division in accordance with s.~~  
420 ~~121.0515. Such member must be employed as a law enforcement~~

CS/HB 1405

2011

~~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 the existing systems and received a refund of his or her



CS/HB 1405

2011

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

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

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

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

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

472 (29) "Normal retirement date" means the date a member  
473 attains normal retirement age and is vested, which is determined  
474 as follows:

475 (a) 1. If a Regular Class member, a Senior Management  
476 Service Class member, or an Elected Officers' Class member

CS/HB 1405

2011

initially enrolled before July 1, 2011:

~~a.1.~~ The first day of the month the member completes 6 or more years of creditable service and attains age 62; or

~~b.2.~~ The first day of the month following the date the member completes 30 years of creditable service, regardless of age.

2. If a Regular Class member, a Senior Management Service Class member, or an Elected Officers' Class member initially enrolled on or after July 1, 2011:

a. The first day of the month the member completes 6 or more years of creditable service and attains age 65; or

b. The first day of the month following the date the member completes 33 years of creditable service, regardless of age.

(b)1. If a Special Risk Class member initially enrolled before July 1, 2011:

~~a.1.~~ The first day of the month the member completes 6 or more years of creditable service in the Special Risk Class and attains age 55;

~~b.2.~~ The first day of the month following the date the member completes 25 years of creditable service in the Special Risk Class, regardless of age; or

~~c.3.~~ The first day of the month following the date the member completes 25 years of creditable service and attains age 52, which service may include a maximum of 4 years of military service credit as long as such credit is not claimed under any other system and the remaining years are in the Special Risk Class.

505        2. If a Special Risk Class member initially enrolled on or  
506 after July 1, 2011:

507        a. The first day of the month the member completes 6 or  
508 more years of creditable service in the Special Risk Class and  
509 attains age 60; or

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

513        c. The first day of the month following the date the  
514 member completes 30 years of creditable service and attains age  
515 57, which service may include a maximum of 4 years of military  
516 service credit as long as such credit is not claimed under any  
517 other system and the remaining years are in the Special Risk  
518 Class.

519  
520 "Normal retirement age" is attained on the "normal retirement  
521 date."

522        (38) "Continuous service" means creditable service as a  
523 member, beginning with the first day of employment with an  
524 employer covered under a state-administered retirement system  
525 consolidated herein and continuing for as long as the member  
526 remains in an employer-employee relationship with an employer  
527 covered under this chapter. An absence of 1 calendar month or  
528 more from an employer's payroll shall be considered a break in  
529 continuous service, except for periods of absence during which  
530 an employer-employee relationship continues to exist and such  
531 period of absence is creditable under this chapter or under one  
532 of the existing systems consolidated herein. However, a law

CS/HB 1405

2011

533 enforcement officer as defined in s. 121.0515 (3) ~~(2)~~ (a) who was a  
534 member of a state-administered retirement system under chapter  
535 122 or chapter 321 and who resigned and was subsequently  
536 reemployed in a law enforcement position within 12 calendar  
537 months of such resignation by an employer under such state-  
538 administered retirement system shall be deemed to have not  
539 experienced a break in service. Further, with respect to a  
540 state-employed law enforcement officer who meets the criteria  
541 specified in s. 121.0515 (3) ~~(2)~~ (a), if the absence from the  
542 employer's payroll is the result of a "layoff" as defined in s.  
543 110.107 or a resignation to run for an elected office that meets  
544 the criteria specified in s. 121.0515 (3) ~~(2)~~ (a), no break in  
545 continuous service shall be deemed to have occurred if the  
546 member is reemployed as a state law enforcement officer or is  
547 elected to an office which meets the criteria specified in s.  
548 121.0515 (3) ~~(2)~~ (a) within 12 calendar months after the date of  
549 the layoff or resignation, notwithstanding the fact that such  
550 period of layoff or resignation is not creditable service under  
551 this chapter. A withdrawal of contributions will constitute a  
552 break in service. Continuous service also includes past service  
553 purchased under this chapter, provided such service is  
554 continuous within this definition and the rules established by  
555 the administrator. The administrator may establish  
556 administrative rules and procedures for applying this definition  
557 to creditable service authorized under this chapter. Any  
558 correctional officer, as defined in s. 943.10, whose  
559 participation in the state-administered retirement system is  
560 terminated due to the transfer of a county detention facility

CS/HB 1405

2011

561 through a contractual agreement with a private entity pursuant  
562 to s. 951.062, shall be deemed an employee with continuous  
563 service in the Special Risk Class, provided return to employment  
564 with the former employer takes place within 3 years due to  
565 contract termination or the officer is employed by a covered  
566 employer in a special risk position within 1 year after his or  
567 her initial termination of employment by such transfer of its  
568 detention facilities to the private entity.

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

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

581 2. For retirements effective on or after July 1, 2010, if  
582 a member is employed by any such employer within the next 6  
583 calendar months, termination shall be deemed not to have  
584 occurred. A leave of absence constitutes a continuation of the  
585 employment relationship, except that a leave of absence without  
586 pay due to disability may constitute termination if such member  
587 makes application for and is approved for disability retirement  
588 in accordance with s. 121.091(4). The department or state board

CS/HB 1405

2011

589 may require other evidence of termination as it deems necessary.

590 (b) "Termination" for a member electing to participate in  
591 the Deferred Retirement Option Program occurs when the program  
592 participant ceases all employment relationships with  
593 participating employers ~~an employer~~ in accordance with s.

594 121.091(13), however:

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

601 2. For termination dates occurring on or after July 1,  
602 2010, if the member participant becomes employed by any such  
603 employer within the next 6 calendar months, termination will be  
604 deemed not to have occurred, except as provided in s.  
605 121.091(13)(b)4.c. A leave of absence constitutes a continuation  
606 of the employment relationship.

607 (c) Effective July 1, 2011, "termination" for a member  
608 receiving a refund of employee contributions occurs when a  
609 member ceases all employment relationships with participating  
610 employers for 3 calendar months. A leave of absence constitutes  
611 a continuation of the employment relationship.

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

616 (59) "Payee" means a retiree or beneficiary of a retiree

CS/HB 1405

2011

617 who has received or is receiving a retirement benefit payment.

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

621 121.051 Participation in the system.—

622 (2) OPTIONAL PARTICIPATION.—

623 (b)1. The governing body of any municipality, metropolitan  
624 planning organization, or special district in the state may  
625 elect to participate in the system upon proper application to  
626 the administrator and may cover all or any of its units as  
627 approved by the Secretary of Health and Human Services and the  
628 administrator. The department shall adopt rules establishing  
629 procedures ~~provisions~~ for the submission of documents necessary  
630 for such application. Prior to being approved for participation  
631 in the Florida Retirement System, the governing body of a ~~any~~  
632 ~~such~~ municipality, metropolitan planning organization, or  
633 special district that has a local retirement system must ~~shall~~  
634 submit to the administrator a certified financial statement  
635 showing the condition of the local retirement system as of a  
636 date within 3 months prior to the proposed effective date of  
637 membership in the Florida Retirement System. The statement must  
638 be certified by a recognized accounting firm that is independent  
639 of the local retirement system. All required documents necessary  
640 for extending Florida Retirement System coverage must be  
641 received by the department for consideration at least 15 days  
642 prior to the proposed effective date of coverage. If the  
643 municipality, metropolitan planning organization, or special  
644 district does not comply with this requirement, the department

645 may require that the effective date of coverage be changed.

646       2. Any city, metropolitan planning organization, or  
647 special district that has an existing retirement system covering  
648 the employees in the units that are to be brought under the  
649 Florida Retirement System may participate only after holding a  
650 referendum in which all employees in the affected units have the  
651 right to participate. Only those employees electing coverage  
652 under the Florida Retirement System by affirmative vote in said  
653 referendum shall be eligible for coverage under this chapter,  
654 and those not participating or electing not to be covered by the  
655 Florida Retirement System shall remain in their present systems  
656 and shall not be eligible for coverage under this chapter. After  
657 the referendum is held, all future employees shall be compulsory  
658 members of the Florida Retirement System.

659       3. At the time of joining the Florida Retirement System,  
660 the governing body of any city, metropolitan planning  
661 organization, or special district complying with subparagraph 1.  
662 may elect to provide, or not provide, benefits based on past  
663 service of officers and employees as described in s. 121.081(1).  
664 However, if such employer elects to provide past service  
665 benefits, such benefits must be provided for all officers and  
666 employees of its covered group.

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

672       5. Subject to the conditions set forth in subparagraph 6.,



CS/HB 1405

2011

673 the governing body of a ~~any~~ hospital licensed under chapter 395  
674 which is governed by the board of a special district as defined  
675 in s. 189.403(1) or by the board of trustees of a public health  
676 trust created under s. 154.07, hereinafter referred to as  
677 "hospital district," and which participates in the system, may  
678 elect to cease participation in the system with regard to future  
679 employees in accordance with the following procedure:

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

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

693 c. The governing body of a ~~any~~ hospital district seeking  
694 to partially withdraw from the system must, before such hearing,  
695 have an actuarial report prepared and certified by an enrolled  
696 actuary, as defined in s. 112.625(3), illustrating the cost to  
697 the hospital district of providing, through the retirement plan  
698 that the hospital district is to adopt, benefits for new  
699 employees comparable to those provided under the Florida  
700 Retirement System.

CS/HB 1405

2011

701 d. Upon meeting all applicable requirements of this  
702 subparagraph, and subject to the conditions set forth in  
703 subparagraph 6., partial withdrawal from the system and adoption  
704 of the alternative retirement plan may be accomplished by  
705 resolution duly adopted by the hospital district board. The  
706 hospital district board must provide written notice of such  
707 withdrawal to the division by mailing a copy of the resolution  
708 to the division, postmarked by ~~no later than~~ December 15, 1995.  
709 The withdrawal shall take effect January 1, 1996.

710 6. Following the adoption of a resolution under sub-  
711 subparagraph 5.d., all employees of the withdrawing hospital  
712 district who were participants in the Florida Retirement System  
713 before ~~prior to~~ January 1, 1996, shall remain as participants in  
714 the system for as long as they are employees of the hospital  
715 district, and all rights, duties, and obligations between the  
716 hospital district, the system, and the employees shall remain in  
717 full force and effect. Any employee who is hired or appointed on  
718 or after January 1, 1996, may not participate in the Florida  
719 Retirement System, and the withdrawing hospital district shall  
720 have no obligation to the system with respect to such employees.

721 (c) Employees of public community colleges or charter  
722 technical career centers sponsored by public community colleges,  
723 designated in s. 1000.21(3), who are members of the Regular  
724 Class of the Florida Retirement System and who comply with the  
725 criteria set forth in this paragraph and s. 1012.875 may, in  
726 lieu of participating in the Florida Retirement System, elect to  
727 withdraw from the system altogether and participate in the State  
728 Community College System Optional Retirement Program provided by

CS/HB 1405

2011

the employing agency under s. 1012.875.

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

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

3. An employee who has elected to participate in the optional retirement program shall have one opportunity, at the employee's discretion, to transfer from the optional retirement program to the pension plan ~~defined benefit program~~ of the

CS/HB 1405

2011

757 Florida Retirement System or to the investment plan established  
758 under part II of this chapter ~~Public Employee Optional~~  
759 ~~Retirement Program~~, subject to the terms of the applicable  
760 optional retirement program contracts.

761 a. If the employee chooses to move to the investment plan  
762 ~~Public Employee Optional Retirement Program~~, any contributions,  
763 interest, and earnings creditable to the employee under the  
764 ~~State Community College System~~ optional retirement program are  
765 retained by the employee in the ~~State Community College System~~  
766 optional retirement program, and the applicable provisions of s.  
767 121.4501(4) govern the election.

768 b. If the employee chooses to move to the pension plan  
769 ~~defined benefit program~~ of the Florida Retirement System, the  
770 employee shall receive service credit equal to his or her years  
771 of service under the ~~State Community College System~~ optional  
772 retirement program.

773 (I) The cost for such credit is the amount representing  
774 the present value of the employee's accumulated benefit  
775 obligation for the affected period of service. The cost shall be  
776 calculated as if the benefit commencement occurs on the first  
777 date the employee becomes eligible for unreduced benefits, using  
778 the discount rate and other relevant actuarial assumptions that  
779 were used to value the Florida Retirement System pension ~~defined~~  
780 ~~benefit~~ plan liabilities in the most recent actuarial valuation.  
781 The calculation must include any service already maintained  
782 under the pension ~~defined benefit~~ plan in addition to the years  
783 under the ~~State Community College System~~ optional retirement  
784 program. The present value of any service already maintained

CS/HB 1405

2011

785 must be applied as a credit to total cost resulting from the  
786 calculation. The division shall ensure that the transfer sum is  
787 prepared using a formula and methodology certified by an  
788 enrolled actuary.

789 (II) The employee must transfer from his or her ~~State~~  
790 ~~Community College System~~ optional retirement program account and  
791 from other employee moneys as necessary, a sum representing the  
792 present value of the employee's accumulated benefit obligation  
793 immediately following the time of such movement, determined  
794 assuming that attained service equals the sum of service in the  
795 pension plan defined benefit program and service in the ~~State~~  
796 ~~Community College System~~ optional retirement program.

797 4. Participation in the optional retirement program is  
798 limited to employees who satisfy the following eligibility  
799 criteria:

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

804 b. The employee is ~~must be~~ employed in a full-time  
805 position classified in the Accounting Manual for Florida's  
806 Public Community Colleges as:

807 (I) Instructional; or

808 (II) Executive Management, Instructional Management, or  
809 Institutional Management and the, ~~if a~~ community college  
810 determines that recruiting to fill a vacancy in the position is  
811 to be conducted in the national or regional market, and the  
812 duties and responsibilities of the position include the

CS/HB 1405

2011

813 formulation, interpretation, or implementation of policies, or  
814 the performance of functions that are unique or specialized  
815 within higher education and that frequently support the mission  
816 of the community college.

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

820 5. Participants in the program are subject to the same  
821 reemployment limitations, renewed membership provisions, and  
822 forfeiture provisions as are applicable to regular members of  
823 the Florida Retirement System under ss. 121.091(9), 121.122, and  
824 121.091(5), respectively. A participant who receives a program  
825 distribution funded by employer contributions shall be deemed to  
826 be retired from a state-administered retirement system if the  
827 participant is subsequently employed with an employer that  
828 participates in the Florida Retirement System.

829 6. Eligible community college employees are compulsory  
830 members of the Florida Retirement System until, pursuant to s.  
831 1012.875, a written election to withdraw from the system and  
832 participate in the ~~State Community College System~~ optional  
833 retirement program is filed with the program administrator and  
834 received by the division.

835 a. A community college employee whose program eligibility  
836 results from initial employment shall ~~must~~ be enrolled in the  
837 ~~State Community College System~~ optional retirement program  
838 retroactive to the first day of eligible employment. The  
839 employer retirement contributions paid through the month of the  
840 employee plan change shall be transferred to the community

CS/HB 1405

2011

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 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~~

CS/HB 1405

2011

869 ~~Retirement System~~ during this period is nullified for purposes  
870 of entitlement to a future benefit under the pension plan  
871 ~~defined benefit program of the Florida Retirement System.~~

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

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

889 121.0515 Special Risk Class ~~membership~~.—

890 (1) ESTABLISHMENT OF CLASS ~~LEGISLATIVE INTENT~~.—There is  
891 established a separate ~~In creating the Special Risk~~ class of  
892 membership within the Florida Retirement System, to be known as  
893 the "Special Risk Class," ~~it is the intent and purpose of the~~  
894 ~~Legislature~~ to recognize that persons employed in certain  
895 categories of law enforcement, firefighting, criminal detention,  
896 and emergency medical care positions are required as one of the



CS/HB 1405

2011

897 essential functions of their positions to perform work that is  
898 physically demanding or arduous, or work that requires  
899 extraordinary agility and mental acuity, and that such persons,  
900 because of diminishing physical and mental faculties, may find  
901 that they are not able, without risk to the health and safety of  
902 themselves, the public, or their coworkers, to continue  
903 performing such duties and thus enjoy the full career and  
904 retirement benefits enjoyed by persons employed in other  
905 membership classes ~~positions~~ and that, if they find it  
906 necessary, due to the physical and mental limitations of their  
907 age, to retire at an earlier age and usually with less service,  
908 they will suffer an economic deprivation therefrom. To address  
909 ~~Therefore, as a means of recognizing~~ the peculiar and special  
910 problems of this class of employees, ~~it is the intent and~~  
911 ~~purpose of the Legislature to establish~~ a class of retirement  
912 membership is established that awards more retirement credit per  
913 year of service than that awarded to other employees; however,  
914 nothing contained herein shall require ineligibility for Special  
915 Risk Class membership upon reaching age 55.

916 (2) MEMBERSHIP.—

917 (a) Until October 1, 1978, "special risk member" means any  
918 officer or employee whose application is approved by the  
919 administrator and who receives salary payments for work  
920 performed as a peace officer; law enforcement officer; police  
921 officer; highway patrol officer; custodial employee at a  
922 correctional or detention facility; correctional agency employee  
923 whose duties and responsibilities involve direct contact with  
924 inmates, but excluding secretarial and clerical employees;

CS/HB 1405

2011

925 firefighter; or an employee in any other job in the field of law  
926 enforcement or fire protection if the duties of such person are  
927 certified as hazardous by his or her employer.

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

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

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

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

951 (e) Effective July 1, 2001, the term "special risk member"  
952 includes any member who is employed as a youth custody officer

CS/HB 1405

2011

953 by the Department of Juvenile Justice and meets the special  
954 criteria set forth in paragraph (3) (g).

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

958 (3)-(2) CRITERIA.-A member, to be designated as a special  
959 risk member, must meet the following criteria:

960 (a) Effective October 1, 1978, the member must be employed  
961 as a law enforcement officer and be certified, or required to be  
962 certified, in compliance with s. 943.1395; however, sheriffs and  
963 elected police chiefs shall be excluded from meeting the  
964 certification requirements of this paragraph. In addition, the  
965 member's duties and responsibilities must include the pursuit,  
966 apprehension, and arrest of law violators or suspected law  
967 violators; or as of July 1, 1982, the member must be an active  
968 member of a bomb disposal unit whose primary responsibility is  
969 the location, handling, and disposal of explosive devices; or  
970 the member must be the supervisor or command officer of a member  
971 or members who have such responsibilities; provided, however,  
972 administrative support personnel, including, but not limited to,  
973 those whose primary duties and responsibilities are in  
974 accounting, purchasing, legal, and personnel, shall not be  
975 included;

976 (b) Effective October 1, 1978, the member must be employed  
977 as a firefighter and be certified, or required to be certified,  
978 in compliance with s. 633.35 and be employed solely within the  
979 fire department of a local government employer or an agency of  
980 state government with firefighting responsibilities. In

CS/HB 1405

2011

981 addition, the member's duties and responsibilities must include  
982 on-the-scene fighting of fires; as of October 1, 2001, fire  
983 prevention, ~~or~~ firefighter training; as of October 1, 2001,  
984 direct supervision of firefighting units, fire prevention, or  
985 firefighter training; or as of July 1, 2001, aerial firefighting  
986 surveillance performed by fixed-wing aircraft pilots employed by  
987 the Division of Forestry of the Department of Agriculture and  
988 Consumer Services; or the member must be the supervisor or  
989 command officer of a member or members who have such  
990 responsibilities; provided, however, administrative support  
991 personnel, including, but not limited to, those whose primary  
992 duties and responsibilities are in accounting, purchasing,  
993 legal, and personnel, shall not be included and further provided  
994 that all periods of creditable service in fire prevention or  
995 firefighter training, or as the supervisor or command officer of  
996 a member or members who have such responsibilities, and for  
997 which the employer paid the special risk contribution rate,  
998 shall be included;

999 (c) Effective October 1, 1978, the member must be employed  
1000 as a correctional officer and be certified, or required to be  
1001 certified, in compliance with s. 943.1395. In addition, the  
1002 member's primary duties and responsibilities must be the  
1003 custody, and physical restraint when necessary, of prisoners or  
1004 inmates within a prison, jail, or other criminal detention  
1005 facility, or while on work detail outside the facility, or while  
1006 being transported; or as of July 1, 1984, the member must be the  
1007 supervisor or command officer of a member or members who have  
1008 such responsibilities; provided, however, administrative support

CS/HB 1405

2011

1009 personnel, including, but not limited to, those whose primary  
1010 duties and responsibilities are in accounting, purchasing,  
1011 legal, and personnel, shall not be included; however, wardens  
1012 and assistant wardens, as defined by rule, shall participate in  
1013 the Special Risk Class;

1014       (d) Effective October 1, 1999, the member must be employed  
1015 by a licensed Advance Life Support (ALS) or Basic Life Support  
1016 (BLS) employer as an emergency medical technician or a paramedic  
1017 and be certified in compliance with s. 401.27. In addition, the  
1018 member's primary duties and responsibilities must include on-  
1019 the-scene emergency medical care or as of October 1, 2001,  
1020 direct supervision of emergency medical technicians or  
1021 paramedics, or the member must be the supervisor or command  
1022 officer of one or more members who have such responsibility.  
1023 However, administrative support personnel, including, but not  
1024 limited to, those whose primary responsibilities are in  
1025 accounting, purchasing, legal, and personnel, shall not be  
1026 included;

1027       (e) Effective January 1, 2001, the member must be employed  
1028 as a community-based correctional probation officer and be  
1029 certified, or required to be certified, in compliance with s.  
1030 943.1395. In addition, the member's primary duties and  
1031 responsibilities must be the supervised custody, surveillance,  
1032 control, investigation, and counseling of assigned inmates,  
1033 probationers, parolees, or community controllees within the  
1034 community; or the member must be the supervisor of a member or  
1035 members who have such responsibilities. Administrative support  
1036 personnel, including, but not limited to, those whose primary

CS/HB 1405

2011

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);
13. Senior registered nurse (class codes 5292 and 5293);
14. Registered nurse specialist (class codes 5294 and 5295);
15. Clinical associate (class codes 5298 and 5299);
16. Advanced registered nurse practitioner (class codes 5297 and 5300);
17. Advanced registered nurse practitioner specialist

CS/HB 1405

2011

1065 (class codes 5304 and 5305);

1066 18. Registered nurse supervisor (class codes 5306 and

1067 5307);

1068 19. Senior registered nurse supervisor (class codes 5308

1069 and 5309);

1070 20. Registered nursing consultant (class codes 5312 and

1071 5313);

1072 21. Quality management program supervisor (class code

1073 5314);

1074 22. Executive nursing director (class codes 5320 and

1075 5321);

1076 23. Speech and hearing therapist (class code 5406); or

1077 24. Pharmacy manager (class code 5251);

1078 (g) Effective July 1, 2001, the member must be employed as

1079 a youth custody officer and be certified, or required to be

1080 certified, in compliance with s. 943.1395. In addition, the

1081 member's primary duties and responsibilities must be the

1082 supervised custody, surveillance, control, investigation,

1083 apprehension, arrest, and counseling of assigned juveniles

1084 within the community;

1085 (h) Effective October 1, 2005, through June 30, 2008, the

1086 member must be employed by a law enforcement agency or medical

1087 examiner's office in a forensic discipline recognized by the

1088 International Association for Identification and must qualify

1089 for active membership in the International Association for

1090 Identification. The member's primary duties and responsibilities

1091 must include the collection, examination, preservation,

1092 documentation, preparation, or analysis of physical evidence or

CS/HB 1405

2011

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, preservation, documentation, preparation, or analysis of human tissues or fluids or physical evidence having potential biological, chemical, or radiological hazard or contamination, or use chemicals, processes, or materials that may have carcinogenic or health-damaging properties in the analysis of such evidence, or the member must be the direct supervisor of one or more individuals having such responsibility. If a special



CS/HB 1405

2011

1121 risk member changes to another position within the same agency,  
1122 he or she must submit a complete application as provided in  
1123 paragraph (4)~~(3)~~(a); or

1124 (k) The member must have already qualified for and be  
1125 actively participating in special risk membership under  
1126 paragraph (a), paragraph (b), or paragraph (c), must have  
1127 suffered a qualifying injury as defined in this paragraph, must  
1128 not be receiving disability retirement benefits as provided in  
1129 s. 121.091(4), and must satisfy the requirements of this  
1130 paragraph.

1131 1. The ability to qualify for the class of membership  
1132 defined in paragraph (2)(f) ~~s. 121.021(15)(f)~~ shall occur when  
1133 two licensed medical physicians, one of whom is a primary  
1134 treating physician of the member, certify the existence of the  
1135 physical injury and medical condition that constitute a  
1136 qualifying injury as defined in this paragraph and that the  
1137 member has reached maximum medical improvement after August 1,  
1138 2008. The certifications from the licensed medical physicians  
1139 must include, at a minimum, that the injury to the special risk  
1140 member has resulted in a physical loss, or loss of use, of at  
1141 least two of the following: left arm, right arm, left leg, or  
1142 right leg; and:

1143 a. That this physical loss or loss of use is total and  
1144 permanent, except in the event that the loss of use is due to a  
1145 physical injury to the member's brain, in which event the loss  
1146 of use is permanent with at least 75-percent loss of motor  
1147 function with respect to each arm or leg affected.

1148 b. That this physical loss or loss of use renders the

CS/HB 1405

2011

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 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

CS/HB 1405

2011

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 employer agrees that the member meets the requirements for Special Risk Class membership, the employer shall certify and submit an application as set forth in this section and submit a copy of the current official job description of the member's duties showing the percentage of time spent performing each duty and a copy of a personnel action form showing the effective date of membership in that position to the department on ~~in~~ behalf of

CS/HB 1405

2011

1205 the employee ~~containing a certification that the member meets~~  
1206 ~~the criteria for special risk membership set forth in this~~  
1207 ~~section and such other supporting documentation as may be~~  
1208 ~~required by administrative rule. The department shall, within 90~~  
1209 ~~days, either designate or refuse to designate the member as a~~  
1210 ~~special risk member.~~

1211 2. Upon receipt of the completed application, proof of  
1212 certification, and supporting documentation, the department  
1213 shall determine if the member meets the requirements for Special  
1214 Risk Class membership. If the requirements are met, the  
1215 department shall approve the member for Special Risk Class  
1216 membership. The employer shall certify to the department any  
1217 changes to the duties and responsibilities of a Special Risk  
1218 Class member. The department shall review the documentation for  
1219 changes to duties and responsibilities and either continue the  
1220 approval of Special Risk Class membership or reclassify the  
1221 member to Regular Class membership.

1222 3. If the employer refuses to certify the member's  
1223 application for Special Risk Class membership, the employer  
1224 shall notify the member of the employer's refusal to certify and  
1225 the reasons for the refusal. If the employer declines to submit  
1226 the member's application to the department, ~~or if~~ the department  
1227 does not designate the member to the ~~as a~~ Special Risk Class, or  
1228 the department removes the member from the Special Risk Class  
1229 member, the member or the employer may appeal to the State  
1230 Retirement Commission, as provided in s. 121.23, for designation  
1231 as a Special Risk Class member. A member who receives a final  
1232 affirmative ruling pursuant to such appeal for Special Risk

CS/HB 1405

2011

1233 Class membership shall have Special Risk Class membership  
1234 retroactive to the date such member would have had Special Risk  
1235 Class membership had such membership been approved by the  
1236 employer and the department, as determined by the department,  
1237 and the employer contributions shall be paid in full within 1  
1238 year after such final ruling.

1239 (b)1. Applying the criteria set forth in this section, the  
1240 Department of Management Services shall specify which current  
1241 and newly created classes of positions under the uniform  
1242 classification plan established pursuant to chapter 110 entitle  
1243 the incumbents of positions in those classes to membership in  
1244 the Special Risk Class. Only employees employed in the classes  
1245 so specified shall be special risk members.

1246 2. When a class is not specified by the department as  
1247 provided in subparagraph 1., the employing agency may petition  
1248 the State Retirement Commission for approval in accordance with  
1249 s. 121.23.

1250 (5)~~(4)~~ REMOVAL OF SPECIAL RISK CLASS MEMBERSHIP.—

1251 (a) Any member who is a special risk member on October 1,  
1252 1978, and who fails to meet the criteria for special risk  
1253 membership established by this section shall have his or her  
1254 special risk designation removed and thereafter shall be a  
1255 regular member and shall earn only regular membership credit.  
1256 The department shall have the authority to review the special  
1257 risk designation of members to determine whether or not those  
1258 members continue to meet the criteria for special risk  
1259 membership.

1260 (b) Any member who is a special risk member on July 1,

CS/HB 1405

2011

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 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

CS/HB 1405

2011

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 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

CS/HB 1405

2011

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.

Notwithstanding the provisions of subsection (5) ~~(4)~~, service in such an administrative support position shall, for purposes of s. 121.091, apply toward satisfaction of the special risk normal retirement date, as defined in s. 121.021(29)(b), provided that, while in such position, the member remains certified as a law enforcement officer, firefighter, correctional officer, emergency medical technician, or paramedic; remains subject to



CS/HB 1405

2011

1345 reassignment at any time to a position qualifying for special  
1346 risk membership; and completes an aggregate of 6 or more years  
1347 of service as a designated special risk member prior to  
1348 retirement.

1349 (b) Upon application by a member, the provisions of this  
1350 subsection shall apply, with respect to such member,  
1351 retroactively to October 1, 1978, provided that the member was  
1352 removed from the Special Risk Class effective October 1, 1978,  
1353 due to a change in special risk criteria as a result of the  
1354 enactment of chapter 78-308, Laws of Florida, or was reassigned  
1355 or employed for training or career development or to fill a  
1356 critical agency need.

1357 (c) The department shall adopt such rules as are required  
1358 to administer this subsection.

1359 (d) Notwithstanding any provision of this subsection to  
1360 the contrary, this subsection does not apply to any special risk  
1361 member who qualifies for continued membership pursuant to the  
1362 provisions of paragraph (3)~~(2)~~(k).

1363 (9)~~(8)~~ RESTORATION OF SPECIAL RISK CREDIT FOR SPECIFIED  
1364 PERIOD OF EMPLOYMENT.—A special risk member who was removed from  
1365 the Special Risk Class effective October 1978, for the sole  
1366 reason that he or she did not possess the required certificate  
1367 or temporary waiver of certificate, and who obtained  
1368 certification and was approved for special risk membership on or  
1369 before June 30, 1982, shall be permitted to have special risk  
1370 credit restored for that period upon:

1371 (a) Certification by his or her employer that all  
1372 requirements for special risk membership except the requirement

CS/HB 1405

2011

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

(b) Any member of the Special Risk Class who has earned

CS/HB 1405

2011

1401 creditable service through September 30, 2001, in another  
1402 membership class of the Florida Retirement System whose  
1403 responsibilities included fire prevention or firefighter  
1404 training, which service is within the purview of the Special  
1405 Risk Class, may purchase additional retirement credit to upgrade  
1406 such service to Special Risk Class service, to the extent of the  
1407 percentages of the member's average final compensation provided  
1408 in s. 121.091(1)(a)2. Contributions for upgrading such service  
1409 to Special Risk Class credit under this subsection shall be  
1410 equal to the difference in the contributions paid and the  
1411 Special Risk Class contribution rate as a percentage of gross  
1412 salary in effect for the period being claimed, plus interest  
1413 thereon at the rate of 6.5 percent a year, compounded annually  
1414 until the date of payment. This service credit may be purchased  
1415 by the employer on behalf of the member.

1416 (c) Any member of the Special Risk Class who has earned  
1417 creditable service through June 30, 2005, in another membership  
1418 class of the Florida Retirement System in a position with the  
1419 Department of Law Enforcement or the Division of State Fire  
1420 Marshal and became covered by the Special Risk Class as  
1421 described in paragraph (3)~~(2)~~(i), or with a local government law  
1422 enforcement agency or medical examiner's office and became  
1423 covered by the Special Risk Class as described in paragraph  
1424 (3)~~(2)~~(j), which service is within the purview of the Special  
1425 Risk Class, and is employed in such position on or after July 1,  
1426 2008, may purchase additional retirement credit to upgrade such  
1427 service to Special Risk Class service, to the extent of the  
1428 percentages of the member's average final compensation provided

CS/HB 1405

2011

1429 in s. 121.091(1)(a)2. The cost for such credit shall be an  
1430 amount representing the actuarial accrued liability for the  
1431 difference in accrual value during the affected period of  
1432 service. The cost shall be calculated using the discount rate  
1433 and other relevant actuarial assumptions that were used to value  
1434 the Florida Retirement System Pension ~~defined-benefit~~ Plan  
1435 liabilities in the most recent actuarial valuation. The division  
1436 shall ensure that the transfer sum is prepared using a formula  
1437 and methodology certified by an enrolled actuary. The cost must  
1438 be paid immediately upon notification by the division. The local  
1439 government employer may purchase the upgraded service credit on  
1440 behalf of the member if the member has been employed by that  
1441 employer for at least 3 years.

1442 Section 8. Paragraphs (a) and (d) of subsection (4),  
1443 paragraph (b) of subsection (7), and subsection (10) of section  
1444 121.052, Florida Statutes, are amended, present paragraph (c) of  
1445 subsection (7) of that section is redesignated as paragraph (d),  
1446 and a new paragraph (c) is added to that subsection, to read:

1447 121.052 Membership class of elected officers.—

1448 (4) PARTICIPATION BY ELECTED OFFICERS SERVING A SHORTENED  
1449 TERM DUE TO APPORTIONMENT, FEDERAL INTERVENTION, ETC.—

1450 (a) Any duly elected officer whose term of office was  
1451 shortened by legislative or judicial apportionment pursuant to  
1452 the provisions of s. 16, Art. III of the State Constitution may,  
1453 after the term of office to which he or she was elected is  
1454 completed, pay into the System Trust Fund the amount of  
1455 contributions that would have been made by the officer or the  
1456 officer's employer on his or her behalf, plus 4 percent interest

CS/HB 1405

2011

1457 compounded annually from the date he or she left office until  
1458 July 1, 1975, and 6.5 percent interest compounded annually  
1459 thereafter, and may receive service credit for the length of  
1460 time the officer would have served if such term had not been  
1461 shortened by apportionment.

1462 (d)1. Any justice or judge, or any retired justice or  
1463 judge who retired before July 1, 1993, who has attained the age  
1464 of 70 years and who is prevented under s. 8, Art. V of the State  
1465 Constitution from completing his or her term of office because  
1466 of age may elect to purchase credit for all or a portion of the  
1467 months he or she would have served during the remainder of the  
1468 term of office, but he or she may claim those months only after  
1469 the date the service would have occurred. The justice or judge  
1470 must pay into the System Trust Fund the amount of contributions  
1471 that would have been made by the employer on his or her behalf  
1472 for the period of time being claimed, plus 6.5 percent interest  
1473 thereon compounded each June 30 from the date he or she left  
1474 office, in order to receive service credit in this class for the  
1475 period of time being claimed. After the date the service would  
1476 have occurred, and upon payment of the required contributions,  
1477 the retirement benefit of a retired justice or judge shall ~~will~~  
1478 be adjusted prospectively to include the ~~this~~ additional  
1479 creditable service; however, such adjustment may be made only  
1480 once.

1481 2. Any justice or judge who does not seek election to a  
1482 subsequent term of office because he or she would be prevented  
1483 under s. 8, Art. V of the State Constitution from completing  
1484 such term of office upon attaining the age of 70 years may elect

CS/HB 1405

2011

1485 to purchase service credit for service as a temporary judge as  
1486 assigned by the court if the temporary assignment follows  
1487 immediately the last full term of office served and the purchase  
1488 is limited to the number of months of service needed to vest  
1489 retirement benefits. To receive retirement credit for such  
1490 temporary service beyond termination, the justice or judge must  
1491 pay into the System Trust Fund the amount of contributions that  
1492 would have been made by the justice or judge and the employer on  
1493 his or her behalf had he or she continued in office for the  
1494 period of time being claimed, plus 6.5 percent interest thereon  
1495 compounded each June 30 from the date he or she left office.

1496 (7) CONTRIBUTIONS.—

1497 (b) The employer paying the salary of a member of the  
1498 Elected Officers' Class shall contribute an amount as specified  
1499 in this subsection or s. 121.71, as appropriate, which shall  
1500 constitute the ~~entire~~ employer retirement contribution with  
1501 respect to such member. The employer shall also withhold one-  
1502 half of the entire contribution of the member required for  
1503 social security coverage. Effective July 1, 2011, each member of  
1504 the Elected Officers' Class shall pay employee contributions as  
1505 specified in s. 121.71.

1506 (c) If a member of the Elected Officers' Class ceases to  
1507 fill an office covered by this class for 3 calendar months for  
1508 any reason other than retirement and has not been employed in  
1509 any capacity with any participating employer for 3 calendar  
1510 months, the member may receive a refund of all contributions he  
1511 or she has made to the pension plan, subject to the restrictions  
1512 otherwise provided in this chapter. Partial refunds are not

CS/HB 1405

2011

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).

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

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

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

(7) A member who is elected or appointed to an elective office and who is participating in the Deferred Retirement

CS/HB 1405

2011

Option Program is not subject to termination as defined in s. 121.021, or reemployment limitations as provided in s. 121.091(9), until the end of his or her current term of office or, if the officer is consecutively elected or reelected to an elective office eligible for coverage under the Florida Retirement System, until he or she no longer holds an elective office, as follows:

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

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

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

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



CS/HB 1405

2011

(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.

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

(I) Heads an organizational unit; or

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

CS/HB 1405

2011

responsibility.

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

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

a. If the employee elects to participate in the Public 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

CS/HB 1405

2011

1625 credit for prior service based upon the time during which the  
1626 employee had withdrawn from the system.

1627 (I) The cost for such credit shall be an amount  
1628 representing the actuarial accrued liability for the affected  
1629 period of service. The cost shall be calculated using the  
1630 discount rate and other relevant actuarial assumptions that were  
1631 used to value the Florida Retirement System defined benefit plan  
1632 liabilities in the most recent actuarial valuation. The  
1633 calculation must ~~shall~~ include any service already maintained  
1634 under the defined benefit plan in addition to the period of  
1635 withdrawal. The actuarial accrued liability attributable to any  
1636 service already maintained under the defined benefit plan shall  
1637 be applied as a credit to the total cost resulting from the  
1638 calculation. The division must ~~shall~~ ensure that the transfer  
1639 sum is prepared using a formula and methodology certified by an  
1640 actuary.

1641 (II) The employee must transfer a sum representing the net  
1642 cost owed for the actuarial accrued liability in sub-sub-  
1643 subparagraph (I) immediately following the time of such  
1644 movement, determined assuming that attained service equals the  
1645 sum of service in the defined benefit program and the period of  
1646 withdrawal.

1647 (j) Except as may otherwise be provided, a ~~any~~ member of  
1648 the Senior Management Service Class may purchase additional  
1649 retirement credit in such class for creditable service within  
1650 the purview of the Senior Management Service Class between  
1651 ~~retroactive to~~ February 1, 1987, and June 30, 2011, and may  
1652 upgrade retirement credit for such service, to the extent of 2

CS/HB 1405

2011

percent of the member's average monthly compensation as specified in paragraph (4)(d) for such service. Contributions for upgrading the additional Senior Management Service credit pursuant to this paragraph shall be equal to the difference in the employer and, if applicable, employee contributions paid and the Senior Management Service Class contribution rate as a percentage of gross salary in effect for the period being claimed, plus interest thereon at the rate of 6.5 percent a year, compounded annually until the date of payment. This service credit may be purchased by the employer on behalf of the member.

(3)

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

(c) 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

CS/HB 1405

2011

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.—

1. Through June 30, 2001, each employer shall contribute on behalf of each participant in the Senior Management Service Optional Annuity Program an amount equal to the normal cost portion of the employer retirement contribution which would be required if the participant were a Senior Management Service Class member of the Florida Retirement System pension plan ~~defined benefit program~~, plus the portion of the contribution

CS/HB 1405

2011

rate required in s. 112.363(8) that would otherwise be assigned to the Retiree Health Insurance Subsidy Trust Fund. Effective July 1, 2001, each employer shall contribute on behalf of each participant in the optional program an amount equal to 12.49 percent of the participant's gross monthly compensation. The department shall deduct an amount approved by the Legislature to provide for the administration of this program. The payment of the contributions to the optional program which is required by this subparagraph for each participant 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.

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

3. An Optional Annuity Program Trust Fund shall be 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

CS/HB 1405

2011

1737 security coverage as now or hereafter may be provided by the  
1738 federal Social Security Act shall be maintained for each  
1739 participant in the Senior Management Service retirement program  
1740 and shall be in addition to the retirement contributions  
1741 specified in this paragraph.

1742 5. Each participant in the Senior Management Service  
1743 Optional Annuity Program may contribute by way of salary  
1744 reduction or deduction a percentage amount of the participant's  
1745 gross compensation not to exceed the percentage amount  
1746 contributed by the employer to the optional annuity program.  
1747 Payment of the participant's contributions shall be made by the  
1748 employer to the department, which shall forward the  
1749 contributions to the designated company or companies contracting  
1750 for payment of benefits for the participant under the program.

1751 (e) Benefits.—

1752 1. Benefits under the Senior Management Service Optional  
1753 Annuity Program are payable only to participants in the program,  
1754 or their beneficiaries as designated by the participant in the  
1755 contract with the provider company, and must be paid by the  
1756 designated company in accordance with the terms of the annuity  
1757 contract applicable to the participant. A participant must be  
1758 terminated from all employment relationships with Florida  
1759 Retirement System employers as provided in s. 121.021(39) to  
1760 begin receiving the employee-funded and employer-funded benefit.  
1761 Benefits funded by employee and employer contributions are  
1762 payable under the terms of the contract to the participant, his  
1763 or her beneficiary, or his or her estate, in addition to:

1764 a. A lump-sum payment to the beneficiary upon the death of

CS/HB 1405

2011

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 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).

3.2. The benefits payable to any person under the Senior Management Service Optional Annuity Program, and any contribution accumulated under such program, are not subject to



CS/HB 1405

2011

1793 assignment, execution, or attachment or to any legal process  
1794 whatsoever.

1795 ~~4.3.~~ Except as provided in subparagraph 5. 4., a  
1796 participant who terminates employment and receives a  
1797 distribution, including a rollover or trustee-to-trustee  
1798 transfer, funded by employer contributions shall be deemed to be  
1799 retired from a state-administered retirement system if the  
1800 participant is subsequently employed with an employer that  
1801 participates in the Florida Retirement System.

1802 ~~5.4.~~ A participant who receives optional annuity program  
1803 benefits funded by employee and employer contributions as a  
1804 mandatory distribution of a de minimis account authorized by the  
1805 department is not considered a retiree.

1806  
1807 As used in this paragraph, a "de minimis account" means an  
1808 account with a provider company containing employee and employer  
1809 contributions and accumulated earnings of not more than \$5,000  
1810 made under this chapter.

1811 Section 11. Subsections (2) and (5) and paragraph (c) of  
1812 subsection (6) of section 121.071, Florida Statutes, are  
1813 amended, present paragraph (d) of subsection (6) is redesignated  
1814 as paragraph (e), and a new paragraph (d) is added to that  
1815 subsection, to read:

1816 121.071 Contributions.—Contributions to the system shall  
1817 be made as follows:

1818 (2) (a) Effective January 1, 1975, or October 1, 1975, as  
1819 applicable, and through June 30, 2011, each employer shall  
1820 accomplish the contribution required by subsection (1) by a

CS/HB 1405

2011

1821 procedure in which no employee's gross salary shall be reduced.  
1822 Effective July 1, 2011, each employee and employer shall pay  
1823 retirement contributions as specified in s. 121.71.

1824 (b) Upon termination of employment from all participating  
1825 employers for 3 calendar months for any reason other than  
1826 retirement pursuant to s. 121.021(39)(c), a member may receive  
1827 ~~shall be entitled to a full~~ refund of all ~~the~~ contributions he  
1828 or she has made to the pension ~~prior or subsequent to~~  
1829 ~~participation in the noncontributory~~ plan, subject to the  
1830 restrictions otherwise provided in this chapter. Partial refunds  
1831 are not permitted. The refund shall not include any interest  
1832 earnings on the contributions for a member of the pension plan.  
1833 Employer contributions made on behalf of the member are not  
1834 refundable. A member may not receive a refund of employee  
1835 contributions if a pending or an approved qualified domestic  
1836 relations order is filed against his or her retirement account.  
1837 By obtaining a refund of contributions, a member waives all  
1838 rights under the Florida Retirement System and the health  
1839 insurance subsidy to the service credit represented by the  
1840 refunded contributions, except the right to purchase his or her  
1841 prior service credit in accordance with s. 121.081(2).

1842 (5) Contributions made in accordance with subsections (1),  
1843 (2), (3), and (4), and s. 121.71 shall be paid ~~by the employer~~  
1844 into the system trust funds in accordance with rules adopted by  
1845 the administrator pursuant to chapter 120, except as may be  
1846 otherwise specified herein. Effective July 1, 2002,  
1847 contributions paid under subsections (1) and (4) and  
1848 accompanying payroll data are due and payable no later than the

CS/HB 1405

2011

1849 5th working day of the month immediately following the month  
1850 during which the payroll period ended.

1851 (6)

1852 (c) By obtaining a refund of contributions, a member  
1853 waives all rights under the Florida Retirement System and the  
1854 health insurance subsidy as provided in s. 112.363 to the  
1855 service credit represented by the refunded contributions, except  
1856 the right to purchase his or her prior service credit in  
1857 accordance with s. 121.081(2).

1858 (d) If a member or former member of the pension plan  
1859 receives an invalid refund from the Florida Retirement System  
1860 Trust Fund, such person must repay the full amount of the  
1861 invalid refund, plus interest at 6.5 percent compounded annually  
1862 on each June 30 from the date of refund until full payment is  
1863 made to the trust fund. The invalid refund must be repaid before  
1864 the member retires or, if applicable, transfers to the  
1865 investment plan.

1866 Section 12. Paragraphs (b) and (c) of subsection (1) and  
1867 subsection (2) of section 121.081, Florida Statutes, are amended  
1868 to read:

1869 121.081 Past service; prior service; contributions.—  
1870 Conditions under which past service or prior service may be  
1871 claimed and credited are:

1872 (1)

1873 (b) Past service earned after January 1, 1975, may be  
1874 claimed by officers or employees of a municipality, metropolitan  
1875 planning organization, charter school, charter technical career  
1876 center, or special district who become a covered group under

CS/HB 1405

2011

1877 this system. The governing body of a covered group may elect to  
1878 provide benefits for past service earned after January 1, 1975,  
1879 in accordance with this chapter, and the cost for such past  
1880 service is established by applying the following formula: The  
1881 employer shall contribute an amount equal to the employer  
1882 contribution rate in effect at the time the service was earned  
1883 and, if applicable, the employee contribution rate, multiplied  
1884 by the employee's gross salary for each year of past service  
1885 claimed, plus 6.5-percent interest thereon, compounded annually,  
1886 figured on each year of past service, with interest compounded  
1887 from date of annual salary earned until date of payment.

1888 (c) If an employer joins the Florida Retirement System  
1889 prior to July 1, 2011, and does ~~Should the employer~~ not elect to  
1890 provide past service for the member at the time of joining, ~~then~~  
1891 the member may claim and pay for the service as provided in  
1892 ~~same, based on~~ paragraphs (a) and (b).

1893 (2) Prior service, as defined in s. 121.021(19), may be  
1894 claimed as creditable service under the Florida Retirement  
1895 System after a member has been reemployed for 1 complete year of  
1896 creditable service ~~within a period of 12 consecutive months,~~  
1897 except as provided in paragraph (c). Service performed as a  
1898 participant of the optional retirement program for the State  
1899 University System under s. 121.35 or the Senior Management  
1900 Service Optional Annuity Program under s. 121.055 may be used to  
1901 satisfy the reemployment requirement of 1 complete year of  
1902 creditable service. The member shall not be permitted to make  
1903 any contributions for prior service until after completion of  
1904 the 1 year of creditable service. If a member does not wish to

CS/HB 1405

2011

claim credit for all of his or her prior service, the service the member claims must be the most recent period of service. The required contributions for claiming the various types of prior service are:

(a) For prior service performed prior to the date the system becomes noncontributory for the member and for which the member had credit under one of the existing retirement systems and received a refund of contributions upon termination of employment, the member shall contribute 4 percent of all salary received during the period being claimed, plus 4-percent interest compounded annually from date of refund until July 1, 1975, and 6.5-percent interest compounded annually thereafter, until full payment is made to the Retirement Trust Fund, and shall receive credit in the Regular Class. A member who elected to transfer to the Florida Retirement System from an existing system may receive credit for prior service under the existing system if he or she was eligible under the existing system to claim the prior service at the time of the transfer.

Contributions for such prior service shall be determined by the applicable provisions of the system under which the prior service is claimed and shall be paid by the member, with matching contributions paid by the employer at the time the service was performed. Effective July 1, 1978, the account of a person who terminated under s. 238.05(3) may not be charged interest for contributions that remained on deposit in the Annuity Savings Trust Fund established under chapter 238, upon retirement under this chapter or chapter 238.

(b) For prior service performed prior to the date the

CS/HB 1405

2011

1933 system becomes noncontributory for the member and for which the  
1934 member had credit under the Florida Retirement System and  
1935 received a refund of contributions upon termination of  
1936 employment, the member shall contribute at the rate that was  
1937 required of him or her during the period of service being  
1938 claimed, on all salary received during such period, plus 4-  
1939 percent interest compounded annually from date of refund until  
1940 July 1, 1975, and 6.5-percent interest compounded annually  
1941 thereafter, until the full payment is made to the Retirement  
1942 Trust Fund, and shall receive credit in the membership class in  
1943 which the member participated during the period claimed.

1944       (c) For prior service as defined in s. 121.021(19)(b) and  
1945 (c) during which no contributions were made because the member  
1946 did not participate in a retirement system, the member shall  
1947 contribute 14.38 percent of all salary received during such  
1948 period or 14.38 percent of \$100 per month during such period,  
1949 whichever is greater, plus 4-percent interest compounded  
1950 annually from the first year of service claimed until July 1,  
1951 1975, and 6.5-percent interest compounded annually thereafter,  
1952 until full payment is made to the Retirement Trust Fund, and  
1953 shall receive credit in the Regular Class.

1954       (d) In order to claim credit for prior service as defined  
1955 in s. 121.021(19)(d) for which no retirement contributions were  
1956 paid during the period of such service, the member shall  
1957 contribute the total employee and employer contributions which  
1958 were required to be made to the Highway Patrol Pension Trust  
1959 Fund, as provided in chapter 321, during the period claimed,  
1960 plus 4-percent interest compounded annually from the first year

CS/HB 1405

2011

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, for which the member had credit under the Florida Retirement System and received a refund of contributions upon termination of employment for 3 calendar months, the member shall contribute at the rate that was required of him or her during the period of service being claimed, plus 6.5 percent interest, compounded annually on each June 30 from date of refund until the full payment is made to the Florida Retirement System Trust Fund, and

CS/HB 1405

2011

shall receive credit in the membership class in which the member participated during the period claimed.

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

Section 13. Subsection (1), paragraph (a) of subsection (3), paragraphs (a) and (c) of subsection (5), paragraph (d) of subsection (9), and paragraph (a) of subsection (13) of section 121.091, Florida Statutes, are amended, and paragraph (1) is added to subsection (13) of that section, to read:

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



CS/HB 1405

2011

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 for all creditable years prior to October 1, 1974.+

b. Three percent of the member's average final compensation for all creditable years after September 30, 1974, and before October 1, 1978.+

c. Two percent of the member's average final compensation for all creditable years after September 30, 1978, and before January 1, 1989.+

CS/HB 1405

2011

d. Two and two-tenths percent of the member's final monthly compensation for all creditable years after December 31, 1988, and before January 1, 1990.~~+~~

e. Two and four-tenths percent of the member's average final compensation for all creditable years after December 31, 1989, and before January 1, 1991.~~+~~

f. Two and six-tenths percent of the member's average final compensation for all creditable years after December 31, 1990, and before January 1, 1992.~~+~~

g. Two and eight-tenths percent of the member's average final compensation for all creditable years after December 31, 1991, and before January 1, 1993.~~+~~

h. Three percent of the member's average final compensation for all creditable years after December 31, 1992.~~+~~ and

i. Three percent of the member's average final compensation for all creditable years of service after September 30, 1978, and before January 1, 1993, for any special risk member who retires after July 1, 2000, or any member of the Special Risk Administrative Support Class entitled to retain the special risk normal retirement date who was a member of the 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

CS/HB 1405

2011

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 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

CS/HB 1405

2011

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.

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

(a) 1. For a member initially enrolled before July 1, 2011, the amount of each monthly payment shall be computed in the same manner as for a normal retirement benefit, in accordance with subsection (1), but shall be based on the member's average monthly compensation and creditable service as of the member's early retirement date. The benefit so computed shall be reduced by five-twelfths of 1 percent for each complete month by which the early retirement date precedes the normal retirement date of age 62 for a member of the Regular Class, Senior Management Service Class, or the Elected Officers' Class, and age 55 for a member of the Special Risk Class, or age 52 if a Special Risk member has completed 25 years of creditable service in accordance with s. 121.021(29)(b)1.c. ~~121.021(29)(b)3.~~

2. For a member initially enrolled on or after July 1, 2011, the amount of each monthly payment shall be computed in the same manner as for a normal retirement benefit, in accordance with subsection (1), but shall be based on the member's average monthly compensation and creditable service as

CS/HB 1405

2011

2129 of the member's early retirement date. The benefit so computed  
2130 shall be reduced by five-twelfths of 1 percent for each complete  
2131 month by which the early retirement date precedes the normal  
2132 retirement date of age 65 for a member of the Regular Class,  
2133 Senior Management Service Class, or the Elected Officers' Class,  
2134 and age 60 for a member of the Special Risk Class, or age 57 if  
2135 a Special Risk member has completed 30 years of creditable  
2136 service in accordance with s. 121.021(29) (b)2.c.

2137 (5) TERMINATION BENEFITS.—A member whose employment is  
2138 terminated prior to retirement retains membership rights to  
2139 previously earned member-noncontributory service credit, and to  
2140 member-contributory service credit, if the member leaves the  
2141 member contributions on deposit in his or her retirement  
2142 account. If a terminated member receives a refund of member  
2143 contributions, such member may reinstate membership rights to  
2144 the previously earned service credit represented by the refund  
2145 by completing 1 year of creditable service and repaying the  
2146 refunded member contributions, plus interest.

2147 (a) A member whose employment is terminated for any reason  
2148 other than death or retirement prior to becoming vested is  
2149 entitled to the return of his or her accumulated contributions  
2150 as of the date of termination. Effective July 1, 2011, upon  
2151 termination of employment from all participating employers for 3  
2152 calendar months for any reason other than retirement pursuant to  
2153 s. 121.021(39) (c), a member may receive a refund of all  
2154 contributions he or she has made to the pension plan, subject to  
2155 the restrictions otherwise provided in this chapter. Partial  
2156 refunds are not permitted. The refund shall not include any

CS/HB 1405

2011

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).

(c) In lieu of the deferred monthly benefit provided in  
paragraph (b), the terminated member may elect to receive a  
lump-sum amount equal to 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  
insurance subsidy to the service credit represented by the

CS/HB 1405

2011

2185 refunded contributions, except the right to purchase his or her  
2186 prior service credit in accordance with s. 121.081(2).

2187 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

2188 (d) The provisions of this subsection apply to retirees,  
2189 as defined in s. 121.4501(2), of the investment plan ~~Public~~  
2190 ~~Employee Optional Retirement Program~~, subject to the following  
2191 conditions:

2192 1. A retiree ~~The retirees~~ may not be reemployed with an  
2193 employer participating in the Florida Retirement System until  
2194 such person has been retired for 6 calendar months.

2195 2. A retiree employed in violation of this subsection and  
2196 an employer that employs or appoints such person are jointly and  
2197 severally liable for reimbursement of any benefits paid to the  
2198 retirement trust fund from which the benefits were paid,  
2199 including the Florida Retirement System Trust Fund and the  
2200 Florida Retirement System Investment Plan ~~Public Employee~~  
2201 ~~Optional Retirement Program~~ Trust Fund, as appropriate. The  
2202 employer must have a written statement from the retiree that he  
2203 or she is not retired from a state-administered retirement  
2204 system.

2205 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and  
2206 subject to this section, the Deferred Retirement Option Program,  
2207 hereinafter referred to as DROP, is a program under which an  
2208 eligible member of the Florida Retirement System may elect to  
2209 participate, deferring receipt of retirement benefits while  
2210 continuing employment with his or her Florida Retirement System  
2211 employer. The deferred monthly benefits shall accrue in the  
2212 Florida Retirement System on behalf of the participant, plus

CS/HB 1405

2011

interest compounded monthly, for the specified period of the DROP participation, as provided in paragraph (c). Upon termination of employment, the participant shall receive the total DROP benefits and begin to receive the previously determined normal retirement benefits. Participation in the DROP does not guarantee employment for the specified period of DROP. Participation in DROP by an eligible member beyond the initial 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



CS/HB 1405

2011

2241 Risk Class members, election to participate may be deferred to  
2242 the 12 months immediately following the date the member attains  
2243 age 57, or age 52 for Special Risk Class members. A member who  
2244 delays DROP participation during the 12-month period immediately  
2245 following his or her maximum DROP deferral date, except as  
2246 provided in subparagraph 6., loses a month of DROP participation  
2247 for each month delayed. A member who fails to make an election  
2248 within the 12-month limitation period forfeits all rights to  
2249 participate in DROP. The member shall advise his or her employer  
2250 and the division in writing of the date DROP begins. The  
2251 beginning date may be subsequent to the 12-month election period  
2252 but must be within the original 60-month participation period  
2253 provided in subparagraph (b)1. When establishing eligibility of  
2254 the member to participate in DROP, the member may elect to  
2255 include or exclude any optional service credit purchased by the  
2256 member from the total service used to establish the normal  
2257 retirement date. A member who has dual normal retirement dates  
2258 is eligible to elect to participate in DROP after attaining  
2259 normal retirement date in either class.

2260 3. The employer of a member electing to participate in  
2261 DROP, or employers if dually employed, shall acknowledge in  
2262 writing to the division the date the member's participation in  
2263 DROP begins and the date the member's employment and DROP  
2264 participation will terminate.

2265 4. Simultaneous employment of a participant by additional  
2266 Florida Retirement System employers subsequent to the  
2267 commencement of participation in DROP is permissible if such  
2268 employers acknowledge in writing a DROP termination date no

CS/HB 1405

2011

2269 later than the participant's existing termination date or the  
2270 maximum participation period provided in subparagraph (b)1.

2271 5. A DROP participant may change employers while  
2272 participating in DROP, subject to the following:

2273 a. A change of employment must take place without a break  
2274 in service so that the member receives salary for each month of  
2275 continuous DROP participation. If a member receives no salary  
2276 during a month, DROP participation shall cease unless the  
2277 employer verifies a continuation of the employment relationship  
2278 for such participant pursuant to s. 121.021(39)(b).

2279 b. Such participant and new employer shall notify the  
2280 division of the identity of the new employer on forms required  
2281 by the division.

2282 c. The new employer shall acknowledge, in writing, the  
2283 participant's DROP termination date, which may be extended but  
2284 not beyond the maximum participation period provided in  
2285 subparagraph (b)1., shall acknowledge liability for any  
2286 additional retirement contributions and interest required if the  
2287 participant fails to timely terminate employment, and is subject  
2288 to the adjustment required in sub-subparagraph (c)5.d.

2289 6. Effective July 1, 2001, for instructional personnel as  
2290 defined in s. 1012.01(2), election to participate in DROP may be  
2291 made at any time following the date on which the member first  
2292 reaches normal retirement date. The member shall advise his or  
2293 her employer and the division in writing of the date on which  
2294 DROP begins. When establishing eligibility of the member to  
2295 participate in DROP for the 60-month participation period  
2296 provided in subparagraph (b)1., the member may elect to include

CS/HB 1405

2011

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 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. 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;

(c) The member returns to active employment performing service with a Florida Retirement System employer in a regularly established position immediately upon termination of the leave of absence and remains on the employer's payroll for 1 calendar month, except that a member who retires on disability while on a medical leave of absence may ~~shall~~ not be required to return to employment. A member whose work year is less than 12 months and

CS/HB 1405

2011

2325 whose leave of absence terminates between school years is  
2326 eligible to receive credit for the leave of absence if ~~as long~~  
2327 ~~as~~ he or she returns to the employment of his or her employer at  
2328 the beginning of the next school year and remains on the  
2329 employer's payroll for 1 calendar month; and

2330       (d) The member makes the required contributions for  
2331 service credit during the leave of absence, which shall be 8  
2332 percent until January 1, 1975, and 9 percent thereafter of his  
2333 or her rate of monthly compensation in effect immediately prior  
2334 to the commencement of such leave for each month of such period,  
2335 plus 4 percent interest until July 1, 1975, and 6.5 percent  
2336 interest thereafter on such contributions, compounded annually  
2337 each June 30 from the due date of the contribution to date of  
2338 payment. Effective July 1, 1980, any leave of absence purchased  
2339 pursuant to this section shall be at the contribution rates  
2340 specified in s. 121.071 or s. 121.71 in effect at the time the  
2341 leave is granted for the class of membership from which the  
2342 leave of absence was granted; however, any member who purchased  
2343 leave-of-absence credit prior to July 1, 1980, for a leave of  
2344 absence from a position in a class other than the regular  
2345 membership class, may pay the appropriate additional  
2346 contributions plus compound interest thereon and receive  
2347 creditable service for such leave of absence in the membership  
2348 class from which the member was granted the leave of absence.

2349  
2350 Effective July 1, 2011, any leave of absence purchased by the  
2351 member pursuant to this section shall be at the employee and  
2352 employer contribution rates specified in s. 121.71 in effect

CS/HB 1405

2011

2353 during the leave for the class of membership from which the  
2354 leave of absence was granted.

2355 Section 15. Section 121.125, Florida Statutes, is amended  
2356 to read:

2357 121.125 Credit for workers' compensation payment periods.—  
2358 A member of the retirement system created by this chapter who  
2359 has been eligible or becomes eligible to receive workers'  
2360 compensation payments for an injury or illness occurring during  
2361 his or her employment while a member of any state retirement  
2362 system shall, upon return to active employment with a covered  
2363 employer for 1 calendar month or upon approval for disability  
2364 retirement in accordance with s. 121.091(4), receive full  
2365 retirement credit for the period prior to such return to active  
2366 employment or disability retirement for which the workers'  
2367 compensation payments were received. However, a ~~no~~ member may  
2368 not receive retirement credit for any such period occurring  
2369 after the earlier of the date of maximum medical improvement as  
2370 defined in s. 440.02 or the date termination has occurred as  
2371 defined in s. 121.021(39). The employer of record at the time of  
2372 the worker's compensation injury or illness shall make the  
2373 required employee and employer retirement contributions based on  
2374 the member's rate of monthly compensation immediately prior to  
2375 his or her receiving workers' compensation payments for  
2376 retirement credit received by the member. The employer of record  
2377 at the time of the workers' compensation injury or illness shall  
2378 be assessed by the division a penalty of 1 percent of the  
2379 contributions on all contributions not paid on the first payroll  
2380 report after the member becomes eligible to receive credit. This

CS/HB 1405

2011

2381 delinquent assessment may not be waived.

2382 Section 16. Section 121.161, Florida Statutes, is  
2383 reenacted to read:

2384 121.161 References to other laws include amendments.—  
2385 References in this chapter to state or federal laws or  
2386 agreements are intended to include such laws as they now exist  
2387 or may hereafter be amended.

2388 Section 17. Paragraphs (g) and (i) of subsection (3),  
2389 paragraph (a) of subsection (4), and subsection (5) of section  
2390 121.35, Florida Statutes, are amended to read:

2391 121.35 Optional retirement program for the State  
2392 University System.—

2393 (3) ELECTION OF OPTIONAL PROGRAM.—

2394 (g) An eligible employee who is a member of the Florida  
2395 Retirement System at the time of election to participate in the  
2396 optional retirement program shall retain all retirement service  
2397 credit earned under the Florida Retirement System, at the rate  
2398 earned. ~~No~~ Additional service credit in the Florida Retirement  
2399 System may not ~~shall~~ be earned while the employee participates  
2400 in the optional program, and ~~nor shall~~ the employee is not ~~be~~  
2401 eligible for disability retirement under the Florida Retirement  
2402 System. An eligible employee may transfer from the Florida  
2403 Retirement System to his or her accounts under the State  
2404 University System Optional Retirement Program a sum representing  
2405 the present value of the employee's accumulated benefit  
2406 obligation under ~~the defined benefit program of~~ the Florida  
2407 Retirement System pension plan for any service credit accrued  
2408 from the employee's first eligible transfer date to the optional

CS/HB 1405

2011

retirement program through the actual date of such transfer, if such service credit was earned ~~in the period~~ from July 1, 1984, through December 31, 1992. The present value of the employee's accumulated benefit obligation shall be calculated as described in s. 121.4501(3)(~~e~~)2. Upon ~~such~~ transfer, all ~~such~~ service credit ~~previously~~ earned under the ~~defined benefit program of the~~ Florida Retirement System pension plan during this period is ~~shall be~~ nullified for purposes of entitlement to a future benefit under the ~~defined benefit program of the~~ Florida Retirement System pension plan.

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

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

CS/HB 1405

2011

2437           2. If the employee chooses to move to the pension plan  
2438 ~~defined benefit program~~ of the Florida Retirement System, the  
2439 employee shall receive service credit equal to his or her years  
2440 of service under the State University System Optional Retirement  
2441 Program.

2442           a. The cost for such credit must be in ~~shall be~~ an amount  
2443 representing the actuarial accrued liability for the affected  
2444 period of service. The cost must ~~shall~~ be calculated using the  
2445 discount rate and other relevant actuarial assumptions that were  
2446 used to value the Florida Retirement System pension ~~defined~~  
2447 ~~benefit~~ plan liabilities in the most recent actuarial valuation.  
2448 The calculation must ~~shall~~ include any service already  
2449 maintained under the pension ~~defined benefit~~ plan in addition to  
2450 the years under the State University System Optional Retirement  
2451 Program. The actuarial accrued liability of any service already  
2452 maintained under the pension ~~defined benefit~~ plan must ~~shall~~ be  
2453 applied as a credit to total cost resulting from the  
2454 calculation. The division must ~~shall~~ ensure that the transfer  
2455 sum is prepared using a formula and methodology certified by an  
2456 enrolled actuary.

2457           b. The employee must transfer from his or her State  
2458 University System Optional Retirement Program account, and from  
2459 other employee moneys as necessary, a sum representing the  
2460 actuarial accrued liability immediately following the time of  
2461 such movement, determined assuming that attained service equals  
2462 the sum of service in the pension plan ~~defined benefit program~~  
2463 and service in the State University System Optional Retirement  
2464 Program.



CS/HB 1405

2011

## (4) CONTRIBUTIONS.—

(a) Through June 30, 2001, each employer shall contribute on behalf of each participant in the optional retirement program an amount equal to the normal cost portion of the employer retirement contribution which would be required if the participant were a regular member of the Florida Retirement System pension plan ~~defined benefit program~~, plus the portion of the contribution rate required in s. 112.363(8) that would otherwise be assigned to the Retiree Health Insurance Subsidy Trust Fund. Effective July 1, 2001, each employer shall contribute on behalf of each participant in the optional program an amount equal to 10.43 percent of the participant's gross monthly compensation. The department shall deduct an amount approved by the Legislature to provide for the administration of this program. The payment of the contributions to the optional program which is required by this paragraph for each participant 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. However, such contributions paid on behalf of an employee described in paragraph (3)(c) shall not be forwarded to 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

CS/HB 1405

2011

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 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.

CS/HB 1405

2011

2521        (b) Under the optional retirement program, benefits are  
2522 not payable for employee hardships, unforeseeable emergencies,  
2523 loans, medical expenses, educational expenses, purchase of a  
2524 principal residence, payments necessary to prevent eviction or  
2525 foreclosure on an employee's principal residence, or any other  
2526 reason prior to termination from all employment relationships  
2527 with participating employers, as provided in s. 121.021(39).

2528        (c)~~(b)~~ Upon receipt by the provider company of a properly  
2529 executed application for distribution of benefits, the total  
2530 accumulated benefit shall be payable to the participant, as:

2531            1. A lump-sum distribution to the participant;

2532            2. A lump-sum direct rollover distribution whereby all  
2533 accrued benefits, plus interest and investment earnings, are  
2534 paid from the participant's account directly to an eligible  
2535 retirement plan, as defined in s. 402(c)(8)(B) of the Internal  
2536 Revenue Code, on behalf of the participant;

2537            3. Periodic distributions;

2538            4. A partial lump-sum payment whereby a portion of the  
2539 accrued benefit is paid to the participant and the remaining  
2540 amount is transferred to an eligible retirement plan, as defined  
2541 in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of  
2542 the participant; or

2543            5. Such other distribution options as are provided for in  
2544 the participant's optional retirement program contract.

2545        (d)~~(e)~~ Survivor benefits shall be payable as:

2546            1. A lump-sum distribution payable to the beneficiaries or  
2547 to the deceased participant's estate;

2548            2. An eligible rollover distribution on behalf of the

CS/HB 1405

2011

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 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

CS/HB 1405

2011

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

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

(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~~

CS/HB 1405

2011

2605 ~~participants in such optional retirement program~~ shall be  
2606 provided through member-directed ~~employee-directed~~ investments,  
2607 in accordance with s. 401(a) of the Internal Revenue Code and  
2608 ~~its~~ related regulations. The employer and members ~~employers~~  
2609 shall make contributions ~~contribute~~, as provided in this section  
2610 and, ss. 121.571~~7~~ and 121.71~~7~~, to the Florida Retirement System  
2611 Investment Plan ~~Public Employee Optional Retirement Program~~  
2612 Trust Fund toward the funding of ~~such optional~~ benefits.

2613 (2) DEFINITIONS.—As used in this part, the term:

2614 (a) "Approved provider" or "provider" means a private  
2615 sector company that is selected and approved by the state board  
2616 to offer one or more investment products or services to the  
2617 investment plan ~~optional retirement program~~. The term includes a  
2618 bundled provider that offers members ~~participants~~ a range of  
2619 individually allocated or unallocated investment products and  
2620 may offer a range of administrative and customer services, which  
2621 may include accounting and administration of individual member  
2622 ~~participant~~ benefits and contributions; individual member  
2623 ~~participant~~ recordkeeping; asset purchase, control, and  
2624 safekeeping; direct execution of the member's ~~participant's~~  
2625 instructions as to asset and contribution allocation;  
2626 calculation of daily net asset values; direct access to member  
2627 ~~participant~~ account information; periodic reporting to members  
2628 ~~participants~~, at least quarterly, on account balances and  
2629 transactions; guidance, advice, and allocation services directly  
2630 relating to the provider's own investment options or products,  
2631 but only if the bundled provider complies with the standard of  
2632 care of s. 404(a)(1)(A-B) of the Employee Retirement Income

CS/HB 1405

2011

2633 Security Act of 1974 (ERISA), and if providing such guidance,  
2634 advice, or allocation services does not constitute a prohibited  
2635 transaction under s. 4975(c)(1) of the Internal Revenue Code or  
2636 s. 406 of ERISA, notwithstanding that such prohibited  
2637 transaction provisions do not apply to the ~~optional~~ retirement  
2638 program; a broad array of distribution options; asset  
2639 allocation; and retirement counseling and education. Private  
2640 sector companies include investment management companies,  
2641 insurance companies, depositories, and mutual fund companies.

2642 (b) "Average monthly compensation" means one-twelfth of  
2643 average final compensation as defined in s. 121.021.

2644 (c) "Covered employment" means employment in a regularly  
2645 established position as defined in s. 121.021.

2646 (d)~~(e)~~ "Division" means the Division of Retirement within  
2647 the department.

2648 (e)~~(f)~~ "Electronic means" means by telephone, if the  
2649 required information is received on a recorded line, or through  
2650 Internet access, if the required information is captured online.

2651 (f)~~(g)~~ "Eligible employee" means an officer or employee,  
2652 as defined in s. 121.021, who:

2653 1. Is a member of, or is eligible for membership in, the  
2654 Florida Retirement System, including any renewed member of the  
2655 Florida Retirement System initially enrolled before July 1,  
2656 2010; or

2657 2. Participates in, or is eligible to participate in, the  
2658 Senior Management Service Optional Annuity Program as  
2659 established under s. 121.055(6), the State Community College  
2660 System Optional Retirement Program as established under s.

CS/HB 1405

2011

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.~~

(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



CS/HB 1405

2011

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).

(1)(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 Retirement System.~~

(a)(b) An eligible employee who is employed in a regularly established position by a state employer on June 1, 2002; by a district school board employer on September 1, 2002; or by a local employer on December 1, 2002, and who is a member of the pension plan ~~defined benefit retirement program of the Florida Retirement System~~ at the time of his or her election to

CS/HB 1405

2011

2717 participate in the investment plan ~~Public Employee Optional~~  
2718 ~~Retirement Program~~ shall retain all retirement service credit  
2719 earned under the pension plan ~~defined benefit retirement program~~  
2720 ~~of the Florida Retirement System~~ as credited under the system  
2721 and is ~~shall be~~ entitled to a deferred benefit upon termination,  
2722 ~~if eligible under the system.~~ However, election to participate  
2723 in the investment plan ~~Public Employee Optional Retirement~~  
2724 ~~Program~~ terminates the active membership of the employee in the  
2725 pension plan ~~defined benefit program of the Florida Retirement~~  
2726 ~~System,~~ and the service of a member ~~participant~~ in the  
2727 investment plan ~~is Public Employee Optional Retirement Program~~  
2728 ~~shall not be~~ creditable under the pension plan ~~defined benefit~~  
2729 ~~retirement program of the Florida Retirement System~~ for purposes  
2730 of benefit accrual but is creditable ~~shall be credited~~ for  
2731 purposes of vesting.

2732 (b)(c)1. Notwithstanding paragraph (a), ~~an (b),~~ each  
2733 eligible employee who elects to participate in the investment  
2734 plan ~~Public Employee Optional Retirement Program~~ and establishes  
2735 one or more individual member ~~participant~~ accounts ~~under the~~  
2736 ~~optional program~~ may elect to transfer to the investment plan  
2737 ~~optional program~~ a sum representing the present value of the  
2738 employee's accumulated benefit obligation under the pension plan  
2739 ~~defined benefit retirement program of the Florida Retirement~~  
2740 ~~System.~~ Upon ~~such~~ transfer, all service credit ~~previously~~ earned  
2741 under the pension plan ~~is defined benefit program of the Florida~~  
2742 ~~Retirement System shall be~~ nullified for purposes of entitlement  
2743 to a future benefit under the pension plan ~~defined benefit~~  
2744 ~~program of the Florida Retirement System.~~ A member may not

CS/HB 1405

2011

transfer participant is precluded from transferring the accumulated benefit obligation balance from the pension plan after the time ~~defined benefit program upon the expiration of~~ the period for enrolling ~~afforded to enroll~~ in the investment plan has expired ~~optional program~~.

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

CS/HB 1405

2011

c.

b. A benefit commencement age, based on the member's estimated creditable service as of the estimate date.

(I) For a member initially enrolled before July 1, 2011,  
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:

(A) ~~(I)~~ Age 62; or

(B) ~~(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.~~

(II) For a member initially enrolled on or after July 1, 2011, the benefit commencement age is the younger of the following, but may not be younger than the member's age as of the estimate date:

(A) Age 65; or

(B) The age the member would attain if the member completed 33 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.

c. (I) 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, initially enrolled before July 1, 2011, the benefit commencement

CS/HB 1405

2011

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:

(A) ~~(I)~~ Age 55; or

(B) ~~(II)~~ The age the member would attain if the member completed 25 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~~.

(II) 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, initially enrolled on or after July 1, 2011, the benefit commencement age is the younger of the following, but may not be younger than the member's age as of the estimate date:

(A) Age 60; or

(B) 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.

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

2.3. For each member participant who elects to transfer moneys from the pension plan ~~defined benefit program~~ to his or her account in the investment plan ~~optional program~~, the

CS/HB 1405

2011

2829 division shall recompute the amount transferred under  
2830 subparagraph 1. within 2. not later than 60 days after the  
2831 actual transfer of funds based upon the member's participant's  
2832 actual creditable service and actual final average compensation  
2833 as of the initial date of participation in the investment plan  
2834 ~~optional program~~. If the recomputed amount differs from the  
2835 amount transferred ~~under subparagraph 2.~~ by \$10 or more, the  
2836 division shall:

2837       a. Transfer, or cause to be transferred, from the Florida  
2838 Retirement System Trust Fund to the member's participant's  
2839 account ~~in the optional program~~ the excess, if any, of the  
2840 recomputed amount over the previously transferred amount  
2841 together with interest from the initial date of transfer to the  
2842 date of transfer under this subparagraph, based upon the  
2843 effective annual interest equal to the assumed return on the  
2844 actuarial investment which was used in the most recent actuarial  
2845 valuation of the system, compounded annually.

2846       b. Transfer, or cause to be transferred, from the member's  
2847 ~~participant's~~ account to the Florida Retirement System Trust  
2848 Fund the excess, if any, of the previously transferred amount  
2849 over the recomputed amount, together with interest from the  
2850 initial date of transfer to the date of transfer under this  
2851 subparagraph, based upon 6 percent effective annual interest,  
2852 compounded annually, pro rata based on the member's  
2853 ~~participant's~~ allocation plan.

2854       3. If contribution adjustments are made as a result of  
2855 employer errors or corrections, including plan corrections,  
2856 following recomputation of the amount transferred under

CS/HB 1405

2011

2857 subparagraph 1., the member is entitled to the additional  
2858 contributions or is responsible for returning any excess  
2859 contributions resulting from the correction. However, any return  
2860 of such erroneous excess pretax contribution by the plan must be  
2861 made within the period allowed by the Internal Revenue Service.  
2862 The present value of the member's accumulated benefit obligation  
2863 shall not be recalculated.

2864 4. As directed by the member participant, the state board  
2865 shall transfer or cause to be transferred the appropriate  
2866 amounts to the designated accounts within. ~~The board shall~~  
2867 ~~establish transfer procedures by rule, but the actual transfer~~  
2868 ~~shall not be later than~~ 30 days after the effective date of the  
2869 member's participation in the investment plan ~~optional program~~  
2870 unless the major financial markets for securities available for  
2871 a transfer are seriously disrupted by an unforeseen event that  
2872 ~~which also~~ causes the suspension of trading on any national  
2873 securities exchange in the country where the securities were  
2874 issued. In that event, the ~~such~~ 30-day period ~~of time~~ may be  
2875 extended by a resolution of the state board ~~trustees~~. Transfers  
2876 are not commissionable or subject to other fees and may be in  
2877 the form of securities or cash, as determined by the state  
2878 board. Such securities are ~~shall be~~ valued as of the date of  
2879 receipt in the member's ~~participant's~~ account.

2880 5. If the state board or the division receives  
2881 notification from the United States Internal Revenue Service  
2882 that this paragraph or any portion of this paragraph will cause  
2883 the retirement system, or a portion thereof, to be disqualified  
2884 for tax purposes under the Internal Revenue Code, ~~then~~ the

CS/HB 1405

2011

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  
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



CS/HB 1405

2011

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 ~~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 ~~is 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 ~~optional~~ program, and, effective the first day of the next month, the employer and participant must ~~shall~~ pay the

CS/HB 1405

2011

2941 applicable contributions based on the employee membership class  
2942 in the ~~optional~~ program.

2943 c. An ~~Any such~~ employee who fails to elect to participate  
2944 in the investment plan ~~Public Employee Optional Retirement~~  
2945 ~~Program~~ within the prescribed time period is deemed to have  
2946 elected to retain membership in the pension plan ~~defined benefit~~  
2947 ~~program of the Florida Retirement System~~, and the employee's  
2948 option to elect to participate in the investment plan ~~optional~~  
2949 ~~program~~ is forfeited.

2950 3. With respect to employees who become eligible to  
2951 participate in the investment plan ~~Public Employee Optional~~  
2952 ~~Retirement Program~~ pursuant to s. 121.051(2)(c)3. or s.  
2953 121.35(3)(i), the ~~any such~~ employee may elect to participate in  
2954 the investment plan ~~Public Employee Optional Retirement Program~~  
2955 in lieu of retaining his or her membership ~~participation~~ in the  
2956 State Community College System Optional Retirement Program or  
2957 the State University System Optional Retirement Program. The  
2958 election must be made in writing or by electronic means and must  
2959 be filed with the third-party administrator. This election is  
2960 irrevocable, except as provided in paragraph (g) ~~(e)~~. Upon  
2961 making such election, the employee shall be enrolled as a member  
2962 ~~in participant of~~ the investment plan ~~Public Employee Optional~~  
2963 ~~Retirement Program~~, the employee's membership in the Florida  
2964 Retirement System shall be governed by the provisions of this  
2965 part, and the employee's participation in the State Community  
2966 College System Optional Retirement Program or the State  
2967 University System Optional Retirement Program shall terminate.  
2968 The employee's enrollment in the investment plan ~~is Public~~

CS/HB 1405

2011

2969 ~~Employee Optional Retirement Program shall be effective on the~~  
2970 first day of the month for which a full month's employer and  
2971 employee contribution is made to the investment plan ~~optional~~  
2972 ~~program.~~

2973 4. For purposes of this paragraph, "state employer" means  
2974 any agency, board, branch, commission, community college,  
2975 department, institution, institution of higher education, or  
2976 water management district of the state, which participates in  
2977 the Florida Retirement System for the benefit of certain  
2978 employees.

2979 (b)1. With respect to an eligible employee who is employed  
2980 in a regularly established position on September 1, 2002, by a  
2981 district school board employer:

2982 a. Any such employee may elect to participate in the  
2983 investment plan ~~Public Employee Optional Retirement Program~~ in  
2984 lieu of retaining his or her membership in the pension plan  
2985 ~~defined benefit program of the Florida Retirement System~~. The  
2986 election must be made in writing or by electronic means and must  
2987 be filed with the third-party administrator by November 30, or,  
2988 in the case of an active employee who is on a leave of absence  
2989 on July 1, 2002, by the last business day of the 5th month  
2990 following the month the leave of absence concludes. This  
2991 election is irrevocable, except as provided in paragraph (g)  
2992 ~~(e)~~. Upon making such election, the employee shall be enrolled  
2993 as a member ~~participant~~ of the investment plan ~~Public Employee~~  
2994 ~~Optional Retirement Program~~, the employee's membership in the  
2995 Florida Retirement System shall be governed by the provisions of  
2996 this part, and the employee's membership in the pension plan

CS/HB 1405

2011

2997 ~~defined benefit program of the Florida Retirement System~~ shall  
2998 terminate. The employee's enrollment in the investment plan  
2999 ~~Public Employee Optional Retirement Program~~ shall be effective  
3000 the first day of the month for which a full month's employer  
3001 contribution is made to the investment ~~optional~~ program.

3002 b. Any such employee who fails to elect to participate in  
3003 the investment plan ~~Public Employee Optional Retirement Program~~  
3004 within the prescribed time period is deemed to have elected to  
3005 retain membership in the pension plan ~~defined benefit program of~~  
3006 ~~the Florida Retirement System~~, and the employee's option to  
3007 elect to participate in the investment plan ~~optional program~~ is  
3008 forfeited.

3009 2. With respect to employees who become eligible to  
3010 participate in the investment plan ~~Public Employee Optional~~  
3011 ~~Retirement Program~~ by reason of employment in a regularly  
3012 established position with a district school board employer  
3013 commencing after July 1, 2002:

3014 a. Any such employee shall, by default, be enrolled in the  
3015 pension plan ~~defined benefit retirement program of the Florida~~  
3016 ~~Retirement System~~ at the commencement of employment, and may, by  
3017 the last business day of the 5th month following the employee's  
3018 month of hire, elect to participate in the investment plan  
3019 ~~Public Employee Optional Retirement Program~~. The employee's  
3020 election must be made in writing or by electronic means and must  
3021 be filed with the third-party administrator. The election to  
3022 participate in the investment plan ~~optional program~~ is  
3023 irrevocable, except as provided in paragraph (g) ~~(e)~~.

3024 b. If the employee files such election within the

CS/HB 1405

2011

3025 prescribed time period, enrollment in the investment plan  
3026 ~~optional program~~ shall be effective on the first day of  
3027 employment. The employer retirement contributions paid through  
3028 the month of the employee plan change shall be transferred to  
3029 the investment plan ~~optional program~~, and, effective the first  
3030 day of the next month, the employer shall pay the applicable  
3031 contributions based on the employee membership class in the  
3032 investment plan ~~optional program~~.

3033 c. Any such employee who fails to elect to participate in  
3034 the investment plan ~~Public Employee Optional Retirement Program~~  
3035 within the prescribed time period is deemed to have elected to  
3036 retain membership in the pension plan ~~defined benefit program of~~  
3037 ~~the Florida Retirement System~~, and the employee's option to  
3038 elect to participate in the investment plan ~~optional program~~ is  
3039 forfeited.

3040 3. For purposes of this paragraph, "district school board  
3041 employer" means any district school board that participates in  
3042 the Florida Retirement System for the benefit of certain  
3043 employees, or a charter school or charter technical career  
3044 center that participates in the Florida Retirement System as  
3045 provided in s. 121.051(2)(d).

3046 (c)1. With respect to an eligible employee who is employed  
3047 in a regularly established position on December 1, 2002, by a  
3048 local employer:

3049 a. Any such employee may elect to participate in the  
3050 investment plan ~~Public Employee Optional Retirement Program~~ in  
3051 lieu of retaining his or her membership in the pension plan  
3052 ~~defined benefit program of the Florida Retirement System~~. The

CS/HB 1405

2011

election must be made in writing or by electronic means and must be filed with the third-party administrator by February 28, 2003, or, in the case of an active employee who is on a leave of absence on October 1, 2002, by the last business day of the 5th month following the month the leave of absence concludes. This election is irrevocable, except as provided in paragraph (g) ~~(e)~~. Upon making such election, the employee shall be enrolled as a 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 local employer commencing after October 1, 2002:

CS/HB 1405

2011

3081           a. Any such employee shall, by default, be enrolled in the  
3082 pension plan ~~defined benefit retirement program of the Florida~~  
3083 ~~Retirement System~~ at the commencement of employment, and may, by  
3084 the last business day of the 5th month following the employee's  
3085 month of hire, elect to participate in the investment plan  
3086 ~~Public Employee Optional Retirement Program~~. The employee's  
3087 election must be made in writing or by electronic means and must  
3088 be filed with the third-party administrator. The election to  
3089 participate in the investment plan ~~optional program~~ is  
3090 irrevocable, except as provided in paragraph (g) ~~(e)~~.

3091           b. If the employee files such election within the  
3092 prescribed time period, enrollment in the investment plan  
3093 ~~optional program~~ shall be effective on the first day of  
3094 employment. The employer retirement contributions paid through  
3095 the month of the employee plan change shall be transferred to  
3096 the investment plan ~~optional program~~, and, effective the first  
3097 day of the next month, the employer shall pay the applicable  
3098 contributions based on the employee membership class in the  
3099 investment plan ~~optional program~~.

3100           c. Any such employee who fails to elect to participate in  
3101 the investment plan ~~Public Employee Optional Retirement Program~~  
3102 within the prescribed time period is deemed to have elected to  
3103 retain membership in the pension plan ~~defined benefit program of~~  
3104 ~~the Florida Retirement System~~, and the employee's option to  
3105 elect to participate in the investment plan ~~optional program~~ is  
3106 forfeited.

3107           3. For purposes of this paragraph, "local employer" means  
3108 any employer not included in paragraph (a) or paragraph (b).

CS/HB 1405

2011

3109           (d) Contributions available for self-direction by a member  
3110 ~~participant~~ who has not selected one or more specific investment  
3111 products shall be allocated as prescribed by the state board.  
3112 The third-party administrator shall notify the member ~~any such~~  
3113 ~~participant~~ at least quarterly that the member ~~participant~~  
3114 should take an affirmative action to make an asset allocation  
3115 among the investment ~~optional program~~ products.

3116           (e) On or after July 1, 2011, a member of the pension plan  
3117 who obtains a refund of employee contributions retains his or  
3118 her prior plan choice upon return to employment in a regularly  
3119 established position with a participating employer.

3120           (f) A member of the investment plan who takes a  
3121 distribution of any contributions from his or her investment  
3122 plan account is considered a retiree. Upon reemployment in a  
3123 regularly established position with a participating employer,  
3124 the member returns as a new hire. A retiree who is initially  
3125 reemployed on or after July 1, 2010, is not eligible for renewed  
3126 membership.

3127           (g) ~~(e)~~ After the period during which an eligible employee  
3128 had the choice to elect the pension plan ~~defined benefit program~~  
3129 or the investment plan ~~optional retirement program~~, or the month  
3130 following the receipt of the eligible employee's plan election,  
3131 if sooner, the employee shall have one opportunity, at the  
3132 employee's discretion, to choose to move from the pension plan  
3133 ~~defined benefit program~~ to the investment plan ~~optional~~  
3134 ~~retirement program~~ or from the investment plan ~~optional~~  
3135 ~~retirement program~~ to the pension plan ~~defined benefit program~~.  
3136 Eligible employees may elect to move between Florida Retirement



CS/HB 1405

2011

3137 System programs only if they are earning service credit in an  
3138 employer-employee relationship consistent with s.  
3139 121.021(17)(b), excluding leaves of absence without pay.  
3140 Effective July 1, 2005, such elections are effective on the  
3141 first day of the month following the receipt of the election by  
3142 the third-party administrator and are not subject to the  
3143 requirements regarding an employer-employee relationship or  
3144 receipt of contributions for the eligible employee in the  
3145 effective month, except when the election is received by the  
3146 third-party administrator. This paragraph is contingent upon  
3147 approval by ~~from~~ the Internal Revenue Service ~~for including the~~  
3148 ~~choice described herein within the programs offered by the~~  
3149 ~~Florida Retirement System.~~

3150 1. If the employee chooses to move to the investment plan  
3151 ~~optional retirement program~~, the ~~applicable~~ provisions of  
3152 subsection (3) ~~this section~~ shall govern the transfer.

3153 2. If the employee chooses to move to the pension plan  
3154 ~~defined benefit program~~, the employee must transfer from his or  
3155 her investment plan ~~optional retirement program~~ account, and  
3156 from other employee moneys as necessary, a sum representing the  
3157 present value of that employee's accumulated benefit obligation  
3158 immediately following the time of such movement, determined  
3159 assuming that attained service equals the sum of service in the  
3160 pension plan ~~defined benefit program~~ and service in the  
3161 investment plan ~~optional retirement program~~. Benefit  
3162 commencement occurs on the first date the employee is eligible  
3163 for unreduced benefits, using the discount rate and other  
3164 relevant actuarial assumptions that were used to value the

CS/HB 1405

2011

3165 pension ~~defined benefit~~ plan liabilities in the most recent  
3166 actuarial valuation. For any employee who, at the time of the  
3167 second election, already maintains an accrued benefit amount in  
3168 the pension plan ~~defined benefit program~~, the then-present value  
3169 of the accrued benefit shall be deemed part of the required  
3170 transfer amount. The division shall ensure that the transfer sum  
3171 is prepared using a formula and methodology certified by an  
3172 enrolled actuary. A refund of any employee contributions or  
3173 additional member payments made which exceed the employee  
3174 contributions that would have accrued had the member remained in  
3175 the pension plan and not transferred to the investment plan is  
3176 not permitted.

3177 3. Notwithstanding subparagraph 2., an employee who  
3178 chooses to move to the pension plan ~~defined benefit program~~ and  
3179 who became eligible to participate in the investment plan  
3180 ~~optional retirement program~~ by reason of employment in a  
3181 regularly established position with a state employer after June  
3182 1, 2002; a district school board employer after September 1,  
3183 2002; or a local employer after December 1, 2002, must transfer  
3184 from his or her investment plan ~~optional retirement program~~  
3185 account, and from other employee moneys as necessary, a sum  
3186 representing the employee's actuarial accrued liability. A  
3187 refund of any employee contributions or additional participant  
3188 payments made which exceed the employee contributions that would  
3189 have accrued had the member remained in the pension plan and not  
3190 transferred to the investment plan is not permitted.

3191 4. An employee's ability to transfer from the pension plan  
3192 ~~defined benefit program~~ to the investment plan ~~optional~~

CS/HB 1405

2011

3193 ~~retirement program~~ pursuant to paragraphs (a)-(d), and the  
3194 ability of a current employee to have an option to later  
3195 transfer back into the pension plan ~~defined benefit program~~  
3196 under subparagraph 2., shall be deemed a significant system  
3197 amendment. Pursuant to s. 121.031(4), any resulting unfunded  
3198 liability arising from actual original transfers from the  
3199 pension plan ~~defined benefit program~~ to the investment plan  
3200 ~~optional program~~ must be amortized within 30 plan years as a  
3201 separate unfunded actuarial base independent of the reserve  
3202 stabilization mechanism defined in s. 121.031(3)(f). For the  
3203 first 25 years, a direct amortization payment may not be  
3204 calculated for this base. During this 25-year period, the  
3205 separate base shall be used to offset the impact of employees  
3206 exercising their second program election under this paragraph.  
3207 ~~It is the intent of the Legislature that~~ The actuarial funded  
3208 status of the pension plan ~~will defined benefit program~~ not be  
3209 affected by such second program elections in any significant  
3210 manner, after due recognition of the separate unfunded actuarial  
3211 base. Following the initial 25-year period, any remaining  
3212 balance of the original separate base shall be amortized over  
3213 the remaining 5 years of the required 30-year amortization  
3214 period.

3215 5. If the employee chooses to transfer from the investment  
3216 plan ~~optional retirement program~~ to the pension plan ~~defined~~  
3217 ~~benefit program~~ and retains an excess account balance in the  
3218 investment plan ~~optional program~~ after satisfying the buy-in  
3219 requirements under this paragraph, the excess may not be  
3220 distributed until the member retires from the pension plan

CS/HB 1405

2011

3221 ~~defined benefit program.~~ The excess account balance may be  
3222 rolled over to the pension plan ~~defined benefit program~~ and used  
3223 to purchase service credit or upgrade creditable service in the  
3224 pension plan ~~that program.~~

3225 (5) CONTRIBUTIONS.—

3226 (a) The employee and ~~Each~~ employer shall make the required  
3227 contributions to ~~contribute on behalf of each participant in the~~  
3228 investment plan based on a percentage of the employee's gross  
3229 monthly compensation ~~Public Employee Optional Retirement~~  
3230 ~~Program,~~ as provided in part III of this chapter.

3231 (b) Employee contributions shall be paid as provided in s.  
3232 121.72(2).

3233 (c) The state board, acting as plan fiduciary, shall  
3234 ensure that all plan assets are held in a trust, pursuant to s.  
3235 401 of the Internal Revenue Code. The fiduciary shall ensure  
3236 that such ~~said~~ contributions are allocated as follows:

3237 1. The employer and employee contribution portion  
3238 earmarked for member ~~participant~~ accounts shall be used to  
3239 purchase interests in the appropriate investment vehicles ~~for~~  
3240 ~~the accounts of each participant~~ as specified by the member  
3241 ~~participant,~~ or in accordance with paragraph (4)(d).

3242 2. The employer contribution portion earmarked for  
3243 administrative and educational expenses shall be transferred to  
3244 the Florida Retirement System Investment Plan Trust Fund ~~board.~~

3245 3. The employer contribution portion earmarked for  
3246 disability benefits shall be transferred to the Florida  
3247 Retirement System Trust Fund ~~department.~~

3248 (d) ~~(b)~~ The third-party administrator is ~~Employers are~~

CS/HB 1405

2011

3249 responsible for monitoring and notifying employers of the  
3250 ~~participants regarding~~ maximum contribution levels allowed for  
3251 members permitted under the Internal Revenue Code. If a member  
3252 ~~participant~~ contributes to any other tax-deferred plan, the  
3253 member ~~he or she~~ is responsible for ensuring that total  
3254 contributions made to the investment plan ~~optional program~~ and  
3255 to any other such plan do not exceed federally permitted  
3256 maximums.

3257 ~~(e)(c)~~ The investment plan ~~Public Employee Optional~~  
3258 ~~Retirement Program~~ may accept for deposit into member  
3259 ~~participant~~ accounts contributions in the form of rollovers or  
3260 direct trustee-to-trustee transfers by or on behalf of members  
3261 ~~participants~~, reasonably determined by the state board to be  
3262 eligible for rollover or transfer to the investment plan  
3263 ~~optional retirement program~~ pursuant to the Internal Revenue  
3264 Code, if such contributions are made in accordance with rules ~~as~~  
3265 ~~may be~~ adopted by the board. Such contributions must ~~shall~~ be  
3266 accounted for in accordance with ~~any~~ applicable Internal Revenue  
3267 Code requirements and rules of the state board.

3268 (6) VESTING REQUIREMENTS.—

3269 (a) A member is fully and immediately vested in all  
3270 employee contributions paid to the investment plan as provided  
3271 in s. 121.72(2), plus interest and earnings thereon and less  
3272 investment fees and administrative charges.

3273 (b)(a)1. With respect to employer contributions paid on  
3274 behalf of the member ~~participant~~ to the investment plan ~~optional~~  
3275 ~~retirement program~~, plus interest and earnings thereon and less  
3276 investment fees and administrative charges, a member ~~participant~~

CS/HB 1405

2011

3277 is vested after completing 1 work year with an employer,  
3278 including any service while the member ~~participant~~ was a member  
3279 of the pension plan ~~defined benefit program~~ or an optional  
3280 retirement program authorized under s. 121.051(2)(c) or s.  
3281 121.055(6).

3282 2. If the member ~~participant~~ terminates employment before  
3283 satisfying the vesting requirements, the nonvested accumulation  
3284 must be transferred from the member's ~~participant's~~ accounts to  
3285 the state board for deposit and investment by the state board in  
3286 its ~~the~~ suspense account created within the Florida Retirement  
3287 System Investment Plan ~~Public Employee Optional Retirement~~  
3288 ~~Program~~ Trust Fund. If the terminated member ~~participant~~ is  
3289 reemployed as an eligible employee within 5 years, the state  
3290 board shall transfer to the member's ~~participant's~~ account any  
3291 amount previously transferred from the member's ~~participant's~~  
3292 accounts to the suspense account, plus actual earnings on such  
3293 amount while in the suspense account.

3294 ~~(c)-(b)~~1. With respect to amounts contributed by an  
3295 employer and transferred from the pension plan ~~defined benefit~~  
3296 ~~program~~ to the investment plan ~~program~~, plus interest and  
3297 earnings, and less investment fees and administrative charges, a  
3298 member ~~participant~~ shall be vested in the amount transferred  
3299 upon meeting the service requirements for the member's  
3300 ~~participant's~~ membership class as set forth in s. 121.021(29).  
3301 The third-party administrator shall account for such amounts for  
3302 each member ~~participant~~. The division shall notify the member  
3303 ~~participant~~ and the third-party administrator when the member  
3304 ~~participant~~ has satisfied the vesting period for Florida

CS/HB 1405

2011

3305 Retirement System purposes.

3306       2. If the member ~~participant~~ terminates employment before  
3307 satisfying the vesting requirements, the nonvested accumulation  
3308 must be transferred from the member's ~~participant's~~ accounts to  
3309 the state board for deposit and investment by the state board in  
3310 the suspense account created within the Florida Retirement  
3311 System Investment Plan ~~Public Employee Optional Retirement~~  
3312 ~~Program~~ Trust Fund. If the terminated member ~~participant~~ is  
3313 reemployed as an eligible employee within 5 years, the state  
3314 board shall transfer to the member's accounts ~~participant's~~  
3315 ~~account~~ any amount previously transferred from the member's  
3316 ~~participant's~~ accounts to the suspense account, plus the actual  
3317 earnings on such amount while in the suspense account.

3318       (d) (e) Any nonvested accumulations transferred from a  
3319 member's ~~participant's~~ account to the state board's suspense  
3320 account shall be forfeited, including accompanying service  
3321 credit, by the member ~~participant~~ if the member ~~participant~~ is  
3322 not reemployed as an eligible employee within 5 years after  
3323 termination.

3324       (e) If the member elects to receive any of his or her  
3325 vested employee or employer contributions upon termination of  
3326 employment as provided in s. 121.021(39) (a), except for a  
3327 mandatory distribution of a de minimis account authorized by the  
3328 state board or a minimum required distribution provided by s.  
3329 401(a) (9) of the Internal Revenue Code, the member shall forfeit  
3330 all nonvested employer contributions, and accompanying service  
3331 credit, paid on behalf of the member to the investment plan.

3332       (7) BENEFITS.—Under the investment plan, benefits must

CS/HB 1405

2011

~~Public Employee Optional Retirement Program:~~

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

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

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

(8) INVESTMENT PLAN ADMINISTRATION OF PROGRAM.-

~~(a)~~ The investment plan ~~optional retirement program~~ shall be administered by the state board and affected employers. The state board may require oaths, by affidavit or otherwise, and acknowledgments from persons in connection with the administration of its statutory duties and responsibilities for the investment plan ~~this program~~. An oath, by affidavit or otherwise, may not be required of a member ~~an employee participant~~ at the time of enrollment. Acknowledgment of an employee's election to participate in the program shall be no greater than necessary to confirm the employee's election. The state board shall adopt rules to carry out its statutory duties with respect to administering the investment plan ~~optional retirement program~~, including establishing the roles and responsibilities of affected state, local government, and education-related employers, the state board, the department, and third-party contractors. The department shall adopt rules necessary to administer the investment plan ~~optional program~~ in coordination with the pension plan ~~defined benefit program~~ and the disability benefits available under the investment plan



CS/HB 1405

2011

3361 ~~optional program.~~

3362       (a) ~~(b)~~1. The state board shall select and contract with a  
3363 ~~one~~ third-party administrator to provide administrative services  
3364 if those services cannot be competitively and contractually  
3365 provided by the division ~~of Retirement within the Department of~~  
3366 ~~Management Services~~. With the approval of the state board, the  
3367 third-party administrator may subcontract ~~with other~~  
3368 ~~organizations or individuals~~ to provide components of the  
3369 administrative services. As a cost of administration, the state  
3370 board may compensate any such contractor for its services, in  
3371 accordance with the terms of the contract, as is deemed  
3372 necessary or proper by the board. The third-party administrator  
3373 may not be an approved provider or be affiliated with an  
3374 approved provider.

3375       2. These administrative services may include, but are not  
3376 limited to, enrollment of eligible employees, collection of  
3377 employer and employee contributions, disbursement of ~~such~~  
3378 contributions to approved providers in accordance with the  
3379 allocation directions of members ~~participants~~; services relating  
3380 to consolidated billing; individual and collective recordkeeping  
3381 and accounting; asset purchase, control, and safekeeping; and  
3382 direct disbursement of funds to and from the third-party  
3383 administrator, the division, the state board, employers, members  
3384 ~~participants~~, approved providers, and beneficiaries. This  
3385 section does not prevent or prohibit a bundled provider from  
3386 providing any administrative or customer service, including  
3387 accounting and administration of individual member ~~participant~~  
3388 benefits and contributions; individual member ~~participant~~

CS/HB 1405

2011

3389 recordkeeping; asset purchase, control, and safekeeping; direct  
3390 execution of the member's ~~participant's~~ instructions as to asset  
3391 and contribution allocation; calculation of daily net asset  
3392 values; direct access to member ~~participant~~ account information;  
3393 or periodic reporting to members ~~participants~~, at least  
3394 quarterly, on account balances and transactions, if these  
3395 services are authorized by the state board as part of the  
3396 contract.

3397 (b)1.3. The state board shall select and contract with one  
3398 or more organizations to provide educational services. With  
3399 approval of the state board, the organizations may subcontract  
3400 ~~with other organizations or individuals~~ to provide components of  
3401 the educational services. As a cost of administration, the state  
3402 board may compensate any such contractor for its services in  
3403 accordance with the terms of the contract, as is deemed  
3404 necessary or proper by the board. The education organization may  
3405 not be an approved provider or be affiliated with an approved  
3406 provider.

3407 2.4. Educational services shall be designed by the state  
3408 board and department to assist employers, eligible employees,  
3409 members ~~participants~~, and beneficiaries in order to maintain  
3410 compliance with United States Department of Labor regulations  
3411 under s. 404(c) of the Employee Retirement Income Security Act  
3412 of 1974 and to assist employees in their choice of pension plan  
3413 ~~defined benefit~~ or investment plan ~~defined contribution~~  
3414 retirement alternatives. Educational services include, but are  
3415 not limited to, disseminating educational materials; providing  
3416 retirement planning education; explaining the pension

CS/HB 1405

2011

3417 ~~differences between the defined benefit retirement~~ plan and the  
3418 investment ~~defined contribution retirement~~ plan; and offering  
3419 financial planning guidance on matters such as investment  
3420 diversification, investment risks, investment costs, and asset  
3421 allocation. An approved provider may also provide educational  
3422 information, including retirement planning and investment  
3423 allocation information concerning its products and services.

3424 (c)1. In evaluating and selecting a third-party  
3425 administrator, the state board shall establish criteria for  
3426 evaluating ~~under which it shall consider~~ the relative  
3427 capabilities and qualifications of each proposed administrator.  
3428 In developing such criteria, the state board shall consider:

3429 a. The administrator's demonstrated experience in  
3430 providing administrative services to public or private sector  
3431 retirement systems.

3432 b. The administrator's demonstrated experience in  
3433 providing daily valued recordkeeping to defined contribution  
3434 programs ~~plans~~.

3435 c. The administrator's ability and willingness to  
3436 coordinate its activities with ~~the Florida Retirement System~~  
3437 employers, the state board, and the division, and to supply to  
3438 such employers, the board, and the division the information and  
3439 data they require, including, but not limited to, monthly  
3440 management reports, quarterly member ~~participant~~ reports, and ad  
3441 hoc reports requested by the department or state board.

3442 d. The cost-effectiveness and levels of the administrative  
3443 services provided.

3444 e. The administrator's ability to interact with the

CS/HB 1405

2011

3445 members ~~participants~~, the employers, the state board, the  
3446 division, and the providers; the means by which members  
3447 ~~participants~~ may access account information, direct investment  
3448 of contributions, make changes to their accounts, transfer  
3449 moneys between available investment vehicles, and transfer  
3450 moneys between investment products; and any fees that apply to  
3451 such activities.

3452 f. Any other factor deemed necessary by the ~~Trustees of~~  
3453 ~~the state board of Administration.~~

3454 2. In evaluating and selecting an educational provider,  
3455 the state board shall establish criteria under which it shall  
3456 consider the relative capabilities and qualifications of each  
3457 proposed educational provider. In developing such criteria, the  
3458 state board shall consider:

3459 a. Demonstrated experience in providing educational  
3460 services to public or private sector retirement systems.

3461 b. Ability and willingness to coordinate its activities  
3462 with the ~~Florida Retirement System~~ employers, the state board,  
3463 and the division, and to supply to such employers, the board,  
3464 and the division the information and data they require,  
3465 including, but not limited to, reports on educational contacts.

3466 c. The cost-effectiveness and levels of the educational  
3467 services provided.

3468 d. Ability to provide educational services via different  
3469 media, including, but not limited to, the Internet, personal  
3470 contact, seminars, brochures, and newsletters.

3471 e. Any other factor deemed necessary by the ~~Trustees of~~  
3472 ~~the state board of Administration.~~

CS/HB 1405

2011

3473           3. The establishment of the criteria shall be solely  
3474 within the discretion of the state board.

3475           (d) The state board shall develop the form and content of  
3476 any contracts to be offered under the investment plan ~~Public~~  
3477 ~~Employee Optional Retirement Program~~. In developing the ~~its~~  
3478 contracts, the board shall ~~must~~ consider:

3479           1. The nature and extent of the rights and benefits to be  
3480 afforded in relation to the ~~required~~ contributions required  
3481 under the plan ~~program~~.

3482           2. The suitability of the rights and benefits provided ~~to~~  
3483 ~~be afforded~~ and the interests of employers in the recruitment  
3484 and retention of eligible employees.

3485           (e)1. The state board may contract ~~with any consultant~~ for  
3486 professional services, including legal, consulting, accounting,  
3487 and actuarial services, deemed necessary to implement and  
3488 administer the investment plan ~~optional program by the Trustees~~  
3489 ~~of the State Board of Administration~~. The state board may enter  
3490 into a contract with one or more vendors to provide low-cost  
3491 investment advice to members ~~participants~~, supplemental to  
3492 education provided by the third-party administrator. All fees  
3493 under any such contract shall be paid by those members  
3494 ~~participants~~ who choose to use the services of the vendor.

3495           2. The department may contract ~~with consultants~~ for  
3496 professional services, including legal, consulting, accounting,  
3497 and actuarial services, deemed necessary to implement and  
3498 administer the investment plan ~~optional program~~ in coordination  
3499 with the pension plan ~~defined benefit program of the Florida~~  
3500 ~~Retirement System~~. The department, in coordination with the

CS/HB 1405

2011

3501 state board, may enter into a contract with the third-party  
3502 administrator in order to coordinate services common to the  
3503 various programs within the Florida Retirement System.

3504 (f) The third-party administrator may ~~shall~~ not receive  
3505 direct or indirect compensation from an approved provider,  
3506 except as specifically provided for in the contract with the  
3507 state board.

3508 (g) The state board shall receive and resolve member  
3509 ~~participant~~ complaints against the program, the third-party  
3510 administrator, or any program vendor or provider; shall resolve  
3511 any conflict between the third-party administrator and an  
3512 approved provider if such conflict threatens the implementation  
3513 or administration of the program or the quality of services to  
3514 employees; and may resolve any other conflicts. The third-party  
3515 administrator shall retain all member ~~participant~~ records for at  
3516 least 5 years for use in resolving any member ~~participant~~  
3517 conflicts. The state board, the third-party administrator, or a  
3518 provider is not required to produce documentation or an audio  
3519 recording to justify action taken with regard to a member  
3520 ~~participant~~ if the action occurred 5 or more years before the  
3521 complaint is submitted to the state board. It is presumed that  
3522 all action taken 5 or more years before the complaint is  
3523 submitted was taken at the request of the member ~~participant~~ and  
3524 with the member's ~~participant's~~ full knowledge and consent. To  
3525 overcome this presumption, the member ~~participant~~ must present  
3526 documentary evidence or an audio recording demonstrating  
3527 otherwise.

3528 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

CS/HB 1405

2011

3529 (a) The state board shall develop policy and procedures  
3530 for selecting, evaluating, and monitoring the performance of  
3531 approved providers and investment products ~~to which employees~~  
3532 ~~may direct retirement contributions~~ under the investment plan  
3533 ~~program~~. In accordance with such policy and procedures, the  
3534 state board shall designate and contract for a number of  
3535 investment products as determined by the board. The board shall  
3536 also select one or more bundled providers, each of which ~~whom~~  
3537 may offer multiple investment options and related services, if  
3538 ~~when~~ such ~~an~~ approach is determined by the board to provide  
3539 ~~afford~~ value to the members ~~participants~~ otherwise not available  
3540 through individual investment products. Each approved bundled  
3541 provider may offer investment options that provide members  
3542 ~~participants~~ with the opportunity to invest in each of the  
3543 following asset classes, to be composed of individual options  
3544 that represent ~~either~~ a single asset class or a combination  
3545 thereof: money markets, United States fixed income, United  
3546 States equities, and foreign stock. The state board shall review  
3547 and manage all educational materials, contract terms, fee  
3548 schedules, and other aspects of the approved provider  
3549 relationships to ensure that no provider is unduly favored or  
3550 penalized by virtue of its status within the investment plan.

3551 (b) The state board shall consider investment options or  
3552 products it considers appropriate to give members ~~participants~~  
3553 the opportunity to accumulate retirement benefits, subject to  
3554 the following:

3555 1. The investment plan ~~Public Employee Optional Retirement~~  
3556 ~~Program~~ must offer a diversified mix of low-cost investment

CS/HB 1405

2011

3557 products that span the risk-return spectrum and may include a  
3558 guaranteed account as well as investment products, such as  
3559 individually allocated guaranteed and variable annuities, which  
3560 meet the requirements of this subsection and combine the ability  
3561 to accumulate investment returns with the option of receiving  
3562 lifetime income consistent with the long-term retirement  
3563 security of a pension plan and similar to the lifetime-income  
3564 benefit provided by the Florida Retirement System.

3565 2. Investment options or products offered by ~~the group of~~  
3566 approved providers may include mutual funds, group annuity  
3567 contracts, individual retirement annuities, interests in trusts,  
3568 collective trusts, separate accounts, and other such financial  
3569 instruments, and ~~may include~~ products that give members  
3570 ~~participants~~ the option of committing their contributions for an  
3571 extended time period in an effort to obtain returns higher than  
3572 those that could be obtained from investment products offering  
3573 full liquidity.

3574 3. The state board may ~~shall~~ not contract with a ~~any~~  
3575 provider that imposes a front-end, back-end, contingent, or  
3576 deferred sales charge, or any other fee that limits or restricts  
3577 the ability of members ~~participants~~ to select any investment  
3578 product available in the investment plan ~~optional program~~. This  
3579 prohibition does not apply to fees or charges that are imposed  
3580 on withdrawals from products that give members ~~participants~~ the  
3581 option of committing ~~their~~ contributions for an extended time  
3582 period in an effort to obtain returns higher than those that  
3583 could be obtained from investment products offering full  
3584 liquidity, if ~~provided that~~ the product ~~in question~~, net of all



CS/HB 1405

2011

fees and charges, produces material benefits relative to other comparable products in the investment plan ~~program~~ offering full liquidity.

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

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

1. Experience in the United States providing retirement products and related financial services under defined contribution retirement programs ~~plans~~.

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

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

4. Compliance with the Internal Revenue Code.

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

CS/HB 1405

2011

3613           6. The provider company's ability and willingness to  
3614 coordinate its activities with Florida Retirement System  
3615 employers, the department, and the state board, and to supply  
3616 the ~~to such~~ employers, the department, and the board with the  
3617 information and data they require.

3618           7. The methods available to members ~~participants~~ to  
3619 interact with the provider company; the means by which members  
3620 ~~participants~~ may access account information, direct investment  
3621 of contributions, make changes to their accounts, transfer  
3622 moneys between available investment vehicles, and transfer  
3623 moneys between provider companies; and any fees that apply to  
3624 such activities.

3625           8. The provider company's policies with respect to the  
3626 transfer of individual account balances, contributions, and  
3627 earnings thereon, both internally among investment products  
3628 offered by the provider company and externally between approved  
3629 providers, as well as any fees, charges, reductions, or  
3630 penalties that may be applied.

3631           9. An evaluation of specific investment products, taking  
3632 into account each product's experience in meeting its investment  
3633 return objectives net of all related fees, expenses, and  
3634 charges, including, but not limited to, investment management  
3635 fees, loads, distribution and marketing fees, custody fees,  
3636 recordkeeping fees, education fees, annuity expenses, and  
3637 consulting fees.

3638           10. Organizational factors, including, but not limited to,  
3639 financial solvency, organizational depth, and experience in  
3640 providing institutional and retail investment services.

CS/HB 1405

2011

(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 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

CS/HB 1405

2011

3669 applicable rules and guidelines of the National Association of  
3670 Securities Dealers which govern the ethical marketing of  
3671 investment products. In furtherance of this mandate, an approved  
3672 provider must agree in its contract with the state board to  
3673 establish and maintain a compliance education and monitoring  
3674 system to supervise the activities of all personnel who directly  
3675 communicate with individual members ~~participants~~ and recommend  
3676 investment products, which system is consistent with rules of  
3677 the National Association of Securities Dealers.

3678 2. Approved provider personnel who directly communicate  
3679 with individual members ~~participants~~ and who recommend  
3680 investment products shall make an independent and unbiased  
3681 determination as to whether an investment product is suitable  
3682 for a particular member ~~participant~~.

3683 3. The state board shall develop procedures to receive and  
3684 resolve member ~~participant~~ complaints against a provider or  
3685 approved provider personnel, and, if ~~when~~ appropriate, refer  
3686 such complaints to the appropriate agency.

3687 4. Approved providers may not sell or in any way  
3688 distribute any customer list or member ~~participant~~  
3689 identification information generated through their offering of  
3690 products or services through the investment plan ~~optional~~  
3691 ~~retirement program~~.

3692 (10) EDUCATION COMPONENT.—

3693 (a) The state board, in coordination with the department,  
3694 shall provide for an education component for system members in a  
3695 manner consistent with the provisions of this section. The  
3696 education component must be available to eligible employees at

CS/HB 1405

2011

3697 least 90 days prior to the beginning date of the election period  
3698 for the employees of the respective types of employers.

3699 (b) The education component must provide system members  
3700 with impartial and balanced information about plan choices. The  
3701 education component must involve multimedia formats. Program  
3702 comparisons must, to the greatest extent possible, be based upon  
3703 the retirement income that different retirement programs may  
3704 provide to the member ~~participant~~. The state board shall monitor  
3705 the performance of the contract to ensure that the program is  
3706 conducted in accordance with the contract, applicable law, and  
3707 the rules of the state board.

3708 (c) The state board, in coordination with the department,  
3709 shall provide for an initial and ongoing transfer education  
3710 component to provide system members with information necessary  
3711 to make informed plan choice decisions. The transfer education  
3712 component must include, but is not limited to, information on:

3713 1. The amount of money available to a member to transfer  
3714 to the defined contribution program.

3715 2. The features of and differences between the pension  
3716 plan ~~defined benefit program~~ and the defined contribution  
3717 program, both generally and specifically, as those differences  
3718 may affect the member.

3719 3. The expected benefit available if the member were to  
3720 retire under each of the retirement programs, based on  
3721 appropriate alternative sets of assumptions.

3722 4. The rate of return from investments in the defined  
3723 contribution program and the period of time over which such rate  
3724 of return must be achieved to equal or exceed the expected

CS/HB 1405

2011

3725 monthly benefit payable to the member under the pension plan  
3726 ~~defined benefit program~~.

3727 5. The historical rates of return for the investment  
3728 alternatives available in the defined contribution programs.

3729 6. The benefits and historical rates of return on  
3730 investments available in a typical deferred compensation plan or  
3731 a typical plan under s. 403(b) of the Internal Revenue Code for  
3732 which the employee may be eligible.

3733 7. The program choices available to employees of the State  
3734 University System and the comparative benefits of each available  
3735 program, if applicable.

3736 8. Payout options available in each of the retirement  
3737 programs.

3738 (d) An ongoing education and communication component must  
3739 provide eligible employees ~~system members~~ with information  
3740 necessary to make informed decisions about choices within their  
3741 retirement system ~~program of membership~~ and in preparation for  
3742 retirement. The component must include, but is not limited to,  
3743 information concerning:

3744 1. Rights and conditions of membership.

3745 2. Benefit features within the program, options, and  
3746 effects of certain decisions.

3747 3. Coordination of contributions and benefits with a  
3748 deferred compensation plan under s. 457 or a plan under s.  
3749 403(b) of the Internal Revenue Code.

3750 4. Significant program changes.

3751 5. Contribution rates and program funding status.

3752 6. Planning for retirement.

CS/HB 1405

2011

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

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

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

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

CS/HB 1405

2011

(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.

The third-party administrator shall provide quarterly and annual summary reports to the state board and any other reports requested by the department or the state board. In any solicitation or offer of coverage under the investment plan ~~an optional retirement program~~, a provider company shall be governed by the contract readability provisions of s. 627.4145, notwithstanding s. 627.4145(6)(c). In addition, all descriptive materials must be prepared under the assumption that the member participant is an unsophisticated investor. Provider companies must maintain an internal system of quality assurance, have proven functional systems that are date-calculation compliant,



CS/HB 1405

2011

and be subject to a due-diligence inquiry that proves their capacity and fitness to undertake service responsibilities.

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

The Investment Advisory Council, created pursuant to s. 215.444, shall assist the state board in implementing and administering the investment plan ~~Public Employee Optional Retirement Program~~.

The ~~Investment Advisory~~ council, ~~created pursuant to s. 215.444,~~ shall review the state board's initial recommendations regarding the criteria to be used in selecting and evaluating approved providers and investment products. The council may provide comments on the recommendations to the state board within 45 days after receiving the initial recommendations. The state board shall make the final determination as to whether any investment provider or product, any contractor, or any and all contract provisions are ~~shall be~~ approved for the investment plan ~~program~~.

(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

CS/HB 1405

2011

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 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

CS/HB 1405

2011

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

CS/HB 1405

2011

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

(c) Subparagraph (8) (b) 2.4- ~~and~~ paragraph ~~(15)~~ (b) incorporate the federal law concept of participant control, established by regulations of the United States Department of Labor under s. 404(c) of the Employee Retirement Income Security Act of 1974 (ERISA). The purpose of this paragraph is to assist employers and the state board of ~~Administration~~ in maintaining compliance with s. 404(c), while avoiding unnecessary costs and eroding member ~~participant~~ benefits under the investment plan ~~Public Employee Optional Retirement Program~~. Pursuant to 29 C.F.R. s. 2550.404c-1(b) (2) (i) (B) (1) (viii), the state board of ~~Administration~~ or its designated agents shall deliver to members ~~participants~~ of the investment plan ~~Public Employee Optional Retirement Program~~ a copy of the prospectus most recently provided to the plan, and, pursuant to 29 C.F.R. s. 2550.404c-1(b) (2) (i) (B) (2) (ii), shall provide such members ~~participants~~ an opportunity to obtain this information, except that:

1. The requirement to deliver a prospectus shall be ~~deemed to be~~ satisfied by delivery of a fund profile or summary profile

CS/HB 1405

2011

3921 that contains the information that would be included in a  
3922 summary prospectus as described by Rule 498 under the Securities  
3923 Act of 1933, 17 C.F.R. s. 230.498. If ~~When~~ the transaction fees,  
3924 expense information or other information provided by a mutual  
3925 fund in the prospectus does not reflect terms negotiated by the  
3926 state board ~~of Administration~~ or its designated agents, the  
3927 ~~aforementioned~~ requirement is ~~deemed to be~~ satisfied by delivery  
3928 of a separate document described by Rule 498 substituting  
3929 accurate information; and

3930 2. Delivery shall be ~~deemed to have been~~ effected if  
3931 delivery is through electronic means and the following standards  
3932 are satisfied:

3933 a. Electronically-delivered documents are prepared and  
3934 provided consistent with style, format, and content requirements  
3935 applicable to printed documents;

3936 b. Each member participant is provided timely and adequate  
3937 notice of the documents that are to be delivered, and their  
3938 significance thereof, and of the member's participant's right to  
3939 obtain a paper copy of such documents free of charge;

3940 c. ~~(I)~~ Members Participants have adequate access to the  
3941 electronic documents, at locations such as their worksites or  
3942 public facilities, and have the ability to convert the documents  
3943 to paper free of charge by the state board ~~of Administration~~,  
3944 and the board or its designated agents take appropriate and  
3945 reasonable measures to ensure that the system for furnishing  
3946 electronic documents results in actual receipt. ~~7 or~~

3947 ~~(II)~~ Members Participants have provided consent to receive  
3948 information in electronic format, which consent may be revoked;

CS/HB 1405

2011

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 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

CS/HB 1405

2011

3977 Retirement System records held by the state board of  
3978 ~~Administration~~ or the department of ~~Management Services~~ is  
3979 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
3980 Constitution.

3981 (20) DESIGNATION OF BENEFICIARIES.—

3982 (a) Each member ~~participant~~ may, by electronic means or on  
3983 a form provided for that purpose, signed and filed with the  
3984 third-party administrator, designate a choice of one or more  
3985 persons, named sequentially or jointly, as his or her  
3986 beneficiary for receiving ~~who shall receive~~ the benefits, if  
3987 any, which may be payable pursuant to this chapter in the event  
3988 of the member's ~~participant's~~ death. If no beneficiary is named  
3989 in this manner, or if no beneficiary designated by the member  
3990 ~~participant~~ survives the member ~~participant~~, the beneficiary  
3991 shall be the spouse of the deceased, if living. If the member's  
3992 ~~participant's~~ spouse is not alive at the time of the  
3993 beneficiary's ~~his or her~~ death, the beneficiary shall be the  
3994 living children of the member ~~participant~~. If no children  
3995 survive, the beneficiary shall be the member's ~~participant's~~  
3996 father or mother, if living; otherwise, the beneficiary shall be  
3997 the member's ~~participant's~~ estate. The beneficiary most recently  
3998 designated by a member ~~participant on a form or letter filed~~  
3999 ~~with the third-party administrator~~ shall be the beneficiary  
4000 entitled to any benefits payable at the time of the member's  
4001 ~~participant's~~ death. However ~~Notwithstanding any other provision~~  
4002 ~~in this subsection to the contrary~~, for a member ~~participant~~ who  
4003 dies prior to his or her effective date of retirement, the  
4004 spouse at the time of death shall be the member's ~~participant's~~

CS/HB 1405

2011

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.

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

(a) The investment plan ~~Public Employee Optional~~



CS/HB 1405

2011

4033 ~~Retirement Program~~ may accept such amounts for deposit into  
4034 member ~~participant~~ accounts as provided in paragraph (5) (e) ~~(e)~~.

4035 (b) The affected member ~~participant~~ shall direct the  
4036 investment of his or her investment account; however, unless he  
4037 or she becomes a renewed member of the Florida Retirement System  
4038 under s. 121.122 and elects to participate in the investment  
4039 plan ~~Public Employee Optional Retirement Program~~, no ~~employer~~  
4040 contributions may ~~not~~ be made to the member's ~~participant's~~  
4041 account as provided under paragraph (5) (a).

4042 (c) The state board or the department is not responsible  
4043 for locating those persons who may be eligible to participate in  
4044 the investment plan ~~Public Employee Optional Retirement Program~~  
4045 under this subsection.

4046 (22) CREDIT FOR MILITARY SERVICE.—Creditable service of  
4047 any member of the investment plan includes ~~Public Employee~~  
4048 ~~Optional Retirement Program shall include~~ military service in  
4049 the Armed Forces of the United States as provided in ~~the~~  
4050 ~~conditions outlined in~~ s. 121.111(1).

4051 Section 19. Section 121.4502, Florida Statutes, is amended  
4052 to read:

4053 121.4502 Florida Retirement System Investment Plan ~~Public~~  
4054 ~~Employee Optional Retirement Program~~ Trust Fund.—

4055 (1) The Florida Retirement System Investment Plan ~~Public~~  
4056 ~~Employee Optional Retirement Program~~ Trust Fund is created to  
4057 hold the assets of the Florida Retirement System Investment Plan  
4058 ~~Public Employee Optional Retirement Program~~ in trust for the  
4059 exclusive benefit of such program's members ~~participants~~ and  
4060 beneficiaries, and for the payment of reasonable administrative

CS/HB 1405

2011

4061 expenses of the program, in accordance with s. 401 of the  
4062 Internal Revenue Code, and shall be administered by the state  
4063 board ~~of Administration~~ as trustee. Funds shall be credited to  
4064 the trust fund as provided in this part, to be used for the  
4065 purposes of this part. The trust fund is exempt from the service  
4066 charges imposed by s. 215.20.

4067 (2) The Florida Retirement System Investment Plan ~~Public~~  
4068 ~~Employee Optional Retirement Program~~ Trust Fund is a retirement  
4069 trust fund of the Florida Retirement System that accounts for  
4070 retirement plan assets held by the state in a trustee capacity  
4071 as a fiduciary for individual participants in the Florida  
4072 Retirement System Investment Plan ~~Public Employee Optional~~  
4073 ~~Retirement Program~~ and, pursuant to s. 19(f), Art. III of the  
4074 State Constitution, is not subject to termination.

4075 (3) A forfeiture account shall be created within the  
4076 Florida Retirement System Investment Plan ~~Public Employee~~  
4077 ~~Optional Retirement Program~~ Trust Fund to hold the assets  
4078 derived from the forfeiture of benefits by participants.  
4079 Pursuant to a private letter ruling from the Internal Revenue  
4080 Service, the forfeiture account may be used only for paying  
4081 expenses of the Florida Retirement System Investment Plan ~~Public~~  
4082 ~~Employee Optional Retirement Program~~ and reducing future  
4083 employer contributions to the program. Consistent with Rulings  
4084 80-155 and 74-340 of the Internal Revenue Service, unallocated  
4085 reserves within the forfeiture account must be used as quickly  
4086 and as prudently as possible considering the state board's  
4087 fiduciary duty. Expected withdrawals from the account must  
4088 endeavor to reduce the account to zero each fiscal year.

CS/HB 1405

2011

Section 20. Subsections (1) and (3) of section 121.4503, Florida Statutes, are amended to read:

121.4503 Florida Retirement System Contributions Clearing Trust Fund.—

(1) The Florida Retirement System Contributions Clearing Trust Fund is created as a clearing fund for disbursing employee and employer contributions to the component plans of the Florida Retirement System and shall be administered by the Department of Management Services. Funds shall be credited to the trust fund as provided in this chapter and shall be held in trust for the contributing members and employers until such time as the assets are transferred by the department to the Florida Retirement System Trust Fund, the Florida Retirement System Investment Plan ~~Public Employee Optional Retirement Program~~ Trust Fund, or other trust funds as authorized by law, to be used for the purposes of this chapter. The trust fund is exempt from the service charges 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 21. 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

CS/HB 1405

2011

4117 employer shall submit ~~accomplish the~~ contributions as required  
4118 by s. 121.71 ~~by a procedure in which no employee's gross salary~~  
4119 ~~shall be reduced.~~

4120 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund  
4121 the retirement and disability benefits provided under this part  
4122 must ~~shall~~ be based on the uniform contribution rates  
4123 established by s. 121.71 and on the membership class or subclass  
4124 of the member participant. Such contributions must ~~shall~~ be  
4125 allocated as provided in ss. 121.72 and 121.73.

4126 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR  
4127 RETIREE HEALTH INSURANCE SUBSIDY.—Contributions required under  
4128 s. 121.71 ~~are this section shall be~~ in addition to employer and  
4129 member contributions ~~required~~ for social security and the  
4130 Retiree Health Insurance Subsidy Trust Fund as required under  
4131 ~~provided in~~ ss. 112.363, 121.052, 121.055, and 121.071, as  
4132 appropriate.

4133 Section 22. Section 121.591, Florida Statutes, is amended  
4134 to read:

4135 121.591 Payment of benefits ~~payable under the Public~~  
4136 ~~Employee Optional Retirement Program of the Florida Retirement~~  
4137 ~~System.~~—Benefits may not be paid under the Florida Retirement  
4138 System Investment Plan ~~this section~~ unless the member has  
4139 terminated employment as provided in s. 121.021(39)(a) or is  
4140 deceased and a proper application has been filed as ~~in the~~  
4141 ~~manner~~ prescribed by the state board or the department. Benefits  
4142 are not payable under the investment plan before termination of  
4143 employment as provided in s. 121.021(39)(a) for employee  
4144 hardships, unforeseeable emergencies, loans, medical expenses,

CS/HB 1405

2011

4145 educational expenses, purchase of a principal residence,  
4146 payments necessary to prevent eviction or foreclosure on an  
4147 employee's principal residence, or any other reason prior to  
4148 termination from all employment relationships with participating  
4149 employers. The state board or department, as appropriate, may  
4150 cancel an application for retirement benefits if ~~when~~ the member  
4151 or beneficiary fails to timely provide the information and  
4152 documents required by this chapter and the rules of the state  
4153 board and department. In accordance with their respective  
4154 responsibilities ~~as provided herein~~, the state board ~~of~~  
4155 ~~Administration~~ and the department ~~of Management Services~~ shall  
4156 adopt rules establishing procedures for application for  
4157 retirement benefits and for the cancellation of such application  
4158 if ~~when~~ the required information or documents are not received.  
4159 The state board ~~of Administration~~ and the department ~~of~~  
4160 ~~Management Services~~, as appropriate, are authorized to cash out  
4161 a de minimis account of a member ~~participant~~ who has been  
4162 terminated from Florida Retirement System covered employment for  
4163 a minimum of 6 calendar months. A de minimis account is an  
4164 account containing member and employer contributions and  
4165 accumulated earnings of not more than \$5,000 made under the  
4166 provisions of this chapter. Such cash-out must either be a  
4167 complete lump-sum liquidation of the account balance, subject to  
4168 the provisions of the Internal Revenue Code, or a lump-sum  
4169 direct rollover distribution paid directly to the custodian of  
4170 an eligible retirement plan, as defined by the Internal Revenue  
4171 Code, on behalf of the member ~~participant~~. Any nonvested  
4172 accumulations and associated service credit, including amounts

CS/HB 1405

2011

4173 transferred to the suspense account of the Florida Retirement  
4174 System Investment Plan Trust Fund authorized under s.  
4175 121.4501(6), shall be forfeited upon payment of any vested  
4176 benefit to a member or beneficiary, except for de minimis  
4177 distributions or minimum required distributions as provided  
4178 under this section. If any financial instrument issued for the  
4179 payment of retirement benefits under this section is not  
4180 presented for payment within 180 days after the last day of the  
4181 month in which it was originally issued, the third-party  
4182 administrator or other duly authorized agent of the state board  
4183 ~~of Administration~~ shall cancel the instrument and credit the  
4184 amount of the instrument to the suspense account of the Florida  
4185 Retirement System Investment Plan ~~Public Employee Optional~~  
4186 ~~Retirement Program~~ Trust Fund authorized under s. 121.4501(6).  
4187 Any such amounts transferred to the suspense account are payable  
4188 upon a proper application, not to include earnings thereon, as  
4189 provided in this section, within 10 years after the last day of  
4190 the month in which the instrument was originally issued, after  
4191 which time such amounts and any earnings attributable to  
4192 employer contributions ~~thereon~~ shall be forfeited. Any such  
4193 forfeited amounts are assets of the Florida Retirement System  
4194 Investment Plan ~~Public Employee Optional Retirement Program~~  
4195 Trust Fund and are not subject to the provisions of chapter 717.  
4196 (1) NORMAL BENEFITS.—Under the investment plan ~~Public~~  
4197 ~~Employee Optional Retirement Program~~:  
4198 (a) Benefits in the form of vested accumulations as  
4199 described in s. 121.4501(6) are payable under this subsection in  
4200 accordance with the following terms and conditions:

CS/HB 1405

2011

4201 1. ~~To the extent vested,~~ Benefits are payable only to a  
4202 member, an alternate payee of a qualified domestic relations  
4203 order, or a beneficiary participant.

4204 2. Benefits shall be paid by the third-party administrator  
4205 or designated approved providers in accordance with the law, the  
4206 contracts, and any applicable board rule or policy.

4207 3. ~~To receive benefits,~~ The member ~~participant~~ must be  
4208 terminated from all employment with all Florida Retirement  
4209 System employers, as provided in s. 121.021(39).

4210 4. Benefit payments may not be made until the member  
4211 ~~participant~~ has been terminated for 3 calendar months, except  
4212 that the state board may authorize by rule for the distribution  
4213 of up to 10 percent of the member's ~~participant's~~ account after  
4214 being terminated for 1 calendar month if the member ~~participant~~  
4215 has reached the normal retirement date as defined in s. 121.021  
4216 ~~of the defined benefit plan.~~

4217 5. If a member or former member of the Florida Retirement  
4218 System receives an invalid distribution ~~from the Public Employee~~  
4219 ~~Optional Retirement Program Trust Fund,~~ such person must either  
4220 repay the full amount ~~invalid distribution to the trust fund~~  
4221 within 90 days after receipt of final notification by the state  
4222 board or the third-party administrator that the distribution was  
4223 invalid, or, in lieu of repayment, the member must terminate  
4224 employment from all participating employers. If such person  
4225 fails to repay the full invalid distribution within 90 days  
4226 after receipt of final notification, the person may be deemed  
4227 retired from the investment plan ~~optional retirement program~~ by  
4228 the state board, ~~as provided pursuant to s. 121.4501(2)(k),~~ and

CS/HB 1405

2011

4229 is subject to s. 121.122. If such person is deemed retired ~~by~~  
4230 ~~the state board~~, any joint and several liability set out in s.  
4231 121.091(9)(d)2. ~~is becomes null and void~~, and the state board,  
4232 the department, or the employing agency is not liable for gains  
4233 on payroll contributions that have not been deposited to the  
4234 person's account in the investment plan ~~retirement program~~,  
4235 pending resolution of the invalid distribution. The member or  
4236 former member who has been deemed retired or who has been  
4237 determined by the state board to have taken an invalid  
4238 distribution may appeal the agency decision through the  
4239 complaint process as provided under s. 121.4501(9)(g)3. As used  
4240 in this subparagraph, the term "invalid distribution" means any  
4241 distribution from an account in the investment plan ~~optional~~  
4242 ~~retirement program~~ which is taken in violation of this section,  
4243 s. 121.091(9), or s. 121.4501.

4244 (b) If a member participant elects to receive his or her  
4245 benefits upon termination of employment as defined in s.  
4246 121.021, the member participant must submit a written  
4247 application or an application by electronic means to the third-  
4248 party administrator indicating his or her preferred distribution  
4249 date and selecting an authorized method of distribution as  
4250 provided in paragraph (c). The member participant may defer  
4251 receipt of benefits until he or she chooses to make such  
4252 application, subject to federal requirements.

4253 (c) Upon receipt by the third-party administrator of a  
4254 properly executed application for distribution of benefits, the  
4255 total accumulated benefit ~~is shall be~~ payable to the member pro  
4256 rata across all Florida Retirement System benefit sources



CS/HB 1405

2011

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 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

CS/HB 1405

2011

4285 employee contributions and ~~participant~~ funds accumulated  
4286 pursuant to paragraph (a), and interest and earnings thereon.  
4287 Pursuant thereto:

4288 (a) Transfer of funds.—To qualify to receive monthly  
4289 disability benefits under this subsection:

4290 1. All moneys accumulated in the member's ~~participant's~~  
4291 ~~Public Employee Optional Retirement Program~~ accounts, including  
4292 vested and nonvested accumulations as described in s.  
4293 121.4501(6), must ~~shall~~ be transferred from such individual  
4294 accounts to the division ~~of Retirement~~ for deposit in the  
4295 disability account of the Florida Retirement System Trust Fund.  
4296 Such moneys must ~~shall~~ be ~~separately~~ accounted for separately.  
4297 Earnings must ~~shall~~ be credited on an annual basis for amounts  
4298 held in the disability accounts of the Florida Retirement System  
4299 Trust Fund based on actual earnings of the ~~Florida Retirement~~  
4300 ~~System~~ trust fund.

4301 2. If the member ~~participant~~ has retained retirement  
4302 credit ~~he or she had~~ earned under the pension plan ~~defined~~  
4303 ~~benefit program of the Florida Retirement System~~ as provided in  
4304 s. 121.4501(3) ~~(b)~~, a sum representing the actuarial present  
4305 value of such credit within the Florida Retirement System Trust  
4306 Fund shall be reassigned by the division ~~of Retirement~~ from the  
4307 pension plan ~~defined benefit program~~ to the disability program  
4308 as implemented under this subsection and shall be deposited in  
4309 the disability account of the ~~Florida Retirement System~~ trust  
4310 fund. Such moneys must ~~shall~~ be ~~separately~~ accounted for  
4311 separately.

4312 (b) Disability retirement; entitlement.—

CS/HB 1405

2011

4313 1. A member participant of the investment plan ~~Public~~  
4314 ~~Employee Optional Retirement Program~~ who becomes totally and  
4315 permanently disabled, as defined in paragraph (d) s.  
4316 ~~121.091(4)(b)~~, after completing 8 years of creditable service,  
4317 or a member participant who becomes totally and permanently  
4318 disabled in the line of duty regardless of ~~his or her~~ length of  
4319 service, is ~~shall be~~ entitled to a monthly disability benefit ~~as~~  
4320 ~~provided herein~~.

4321 2. In order for service to apply toward the 8 years of  
4322 creditable service required ~~to vest~~ for regular disability  
4323 benefits, or toward the creditable service used in calculating a  
4324 service-based benefit as provided ~~for~~ under paragraph (g), the  
4325 service must be creditable service as described below:

4326 a. The member's participant's period of service under the  
4327 investment plan shall ~~Public Employee Optional Retirement~~  
4328 ~~Program will~~ be considered creditable service, except as  
4329 provided in subparagraph d.

4330 b. If the member participant has elected to retain credit  
4331 for ~~his or her~~ service under the pension plan ~~defined benefit~~  
4332 ~~program of the Florida Retirement System~~ as provided under s.  
4333 ~~121.4501(3)(b)~~, all such service shall ~~will~~ be considered  
4334 creditable service.

4335 c. If the member elects ~~participant has elected~~ to  
4336 transfer to his or her member participant accounts a sum  
4337 representing the present value of his or her retirement credit  
4338 under the pension plan ~~defined benefit program~~ as provided under  
4339 s. ~~121.4501(3)(c)~~, the period of service under the pension plan  
4340 ~~defined benefit program~~ represented in the present value amounts

CS/HB 1405

2011

4341 transferred shall ~~will~~ be considered creditable service ~~for~~  
4342 ~~purposes of vesting for disability benefits~~, except as provided  
4343 in subparagraph d.

4344 d. Whenever a member ~~participant~~ has terminated employment  
4345 and has taken distribution of his or her funds as provided in  
4346 subsection (1), all creditable service represented by such  
4347 distributed funds is forfeited for purposes of this subsection.

4348 (c) Disability retirement effective date.—The effective  
4349 retirement date for a member ~~participant~~ who applies and is  
4350 approved for disability retirement shall be established as  
4351 provided under s. 121.091(4)(a)2. and 3.

4352 (d) Total and permanent disability.—A member ~~participant~~  
4353 shall be considered totally and permanently disabled if, in the  
4354 opinion of the division, he or she is prevented, by reason of a  
4355 medically determinable physical or mental impairment, from  
4356 rendering useful and efficient service as an officer or  
4357 employee.

4358 (e) Proof of disability.—~~The division,~~ Before approving  
4359 payment of any disability retirement benefit, the division shall  
4360 require proof that the member ~~participant~~ is totally and  
4361 permanently disabled ~~in the same manner as provided for members~~  
4362 ~~of the defined benefit program of the Florida Retirement System~~  
4363 under s. 121.091(4)(c).

4364 (f) Disability retirement benefit.—Upon the disability  
4365 retirement of a member ~~participant~~ under this subsection, the  
4366 member ~~participant~~ shall receive a monthly benefit that begins  
4367 accruing ~~shall begin to accrue~~ on the first day of the month of  
4368 disability retirement, as approved by the division, and is ~~shall~~

CS/HB 1405

2011

4369 ~~be~~ payable on the last day of that month and each month  
4370 thereafter during his or her lifetime and continued disability.  
4371 All disability benefits must ~~payable to such member shall~~ be  
4372 paid out of the disability account of the Florida Retirement  
4373 System Trust Fund established under this subsection.

4374 (g) Computation of disability retirement benefit.—The  
4375 amount of each monthly payment must ~~shall~~ be calculated ~~in the~~  
4376 ~~same manner~~ as provided ~~for members of the defined benefit~~  
4377 ~~program of the Florida Retirement System~~ under s. 121.091(4)(f).  
4378 ~~For such purpose,~~ Creditable service under both the pension plan  
4379 ~~defined benefit program~~ and the investment plan ~~Public Employee~~  
4380 ~~Optional Retirement Program of the Florida Retirement System~~  
4381 shall be applicable as provided under paragraph (b).

4382 (h) Reapplication.—A member ~~participant~~ whose initial  
4383 application for disability retirement is ~~has been~~ denied may  
4384 reapply for disability benefits ~~in the same manner, and under~~  
4385 ~~the same conditions,~~ as provided for members ~~of the defined~~  
4386 ~~benefit program of the Florida Retirement System~~ under s.  
4387 121.091(4)(g).

4388 (i) Membership.—Upon approval of a member's ~~an~~ application  
4389 for disability benefits ~~under this subsection,~~ the member  
4390 ~~applicant~~ shall be transferred to the pension plan ~~defined~~  
4391 ~~benefit program of the Florida Retirement System,~~ effective upon  
4392 his or her disability retirement effective date.

4393 (j) Option to cancel.—A member ~~Any participant~~ whose  
4394 application for disability benefits is approved may cancel the  
4395 ~~his or her application if for disability benefits, provided that~~  
4396 the cancellation request is received by the division before a

CS/HB 1405

2011

4397 disability retirement warrant has been deposited, cashed, or  
4398 received by direct deposit. Upon ~~such~~ cancellation:

4399 1. The member's ~~participant's~~ transfer to the pension plan  
4400 ~~defined benefit program~~ under paragraph (i) shall be nullified;

4401 2. The member ~~participant~~ shall be retroactively  
4402 reinstated in the investment plan ~~Public Employee Optional~~  
4403 ~~Retirement Program~~ without hiatus;

4404 3. All funds transferred to the Florida Retirement System  
4405 Trust Fund under paragraph (a) must ~~shall~~ be returned to the  
4406 member ~~participant~~ accounts from which the ~~such~~ funds were  
4407 drawn; and

4408 4. The member ~~participant~~ may elect to receive the benefit  
4409 payable under ~~the provisions of~~ subsection (1) in lieu of  
4410 disability benefits ~~as provided under this subsection~~.

4411 (k) Recovery from disability.—

4412 1. The division may require periodic reexaminations at the  
4413 expense of the disability program account of the Florida  
4414 Retirement System Trust Fund. Except as ~~otherwise~~ provided in  
4415 subparagraph 2., ~~the requirements, procedures, and restrictions~~  
4416 ~~relating to the conduct and review of such reexaminations,~~  
4417 ~~discontinuation or termination of benefits, reentry into~~  
4418 ~~employment, disability retirement after reentry into covered~~  
4419 ~~employment, and~~ all other matters relating to recovery from  
4420 disability shall be ~~the same~~ as provided ~~are set forth~~ under s.  
4421 121.091(4)(h).

4422 2. Upon recovery from disability, the ~~any~~ recipient of  
4423 disability retirement benefits under this subsection shall be a  
4424 compulsory member of the investment plan ~~Public Employee~~

CS/HB 1405

2011

~~Optional Retirement Program of the Florida Retirement System.~~

The net difference between the recipient's original account balance transferred to the Florida Retirement System Trust Fund, including earnings, ~~under paragraph (a)~~ and total disability benefits paid to such recipient, if any, shall be determined as provided in sub-subparagraph a.

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

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

CS/HB 1405

2011

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.

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

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

1. If a member participant 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~~



CS/HB 1405

2011

4481 ~~order of the Supreme Court upon recommendation of the Judicial~~  
4482 ~~Qualifications Commission pursuant to s. 12, the provisions of~~  
4483 ~~Art. V of the State Constitution, the member's participant's~~  
4484 ~~Option 1 monthly disability benefit amount as provided in s.~~  
4485 ~~121.091(6) (a)1. shall be two-thirds of his or her monthly~~  
4486 ~~compensation as of the member's participant's disability~~  
4487 ~~retirement date. The member~~ Such a participant ~~may alternatively~~  
4488 ~~elect to receive an actuarially adjusted disability retirement~~  
4489 ~~benefit under any other option as provided in s. 121.091(6) (a),~~  
4490 ~~or to receive the normal benefit payable under the Public~~  
4491 ~~Employee Optional Retirement Program as set forth in subsection~~  
4492 ~~(1).~~

4493 2. If any justice or judge who is a member participant of  
4494 the investment plan ~~Public Employee Optional Retirement Program~~  
4495 ~~of the Florida Retirement System~~ is retired for disability ~~by~~  
4496 ~~order of the Supreme Court upon recommendation of the Judicial~~  
4497 ~~Qualifications Commission pursuant to s. 12, the provisions of~~  
4498 ~~Art. V of the State Constitution and elects to receive a monthly~~  
4499 ~~disability benefit under the provisions of this paragraph:~~

4500 a. Any present value amount that was transferred to his or  
4501 her investment plan ~~program~~ account and all employee and  
4502 employer contributions made to such account on his or her  
4503 behalf, plus interest and earnings thereon, must ~~shall~~ be  
4504 transferred to and deposited in the disability account of the  
4505 Florida Retirement System Trust Fund; and

4506 b. The monthly disability benefits payable under this  
4507 ~~paragraph for any affected justice or judge retired from the~~  
4508 ~~Florida Retirement System pursuant to Art. V of the State~~

CS/HB 1405

2011

4509 ~~Constitution~~ shall be paid from the disability account of the  
4510 Florida Retirement System Trust Fund.

4511 (n) Death of retiree or beneficiary.—Upon the death of a  
4512 disabled retiree or beneficiary of the retiree ~~thereof~~ who is  
4513 receiving monthly disability benefits under this subsection, the  
4514 monthly benefits shall be paid through the last day of the month  
4515 of death and shall terminate, or be adjusted, if applicable, as  
4516 of that date in accordance with the optional form of benefit  
4517 selected at the time of retirement. The department ~~of Management~~  
4518 ~~Services~~ may adopt rules necessary to administer this paragraph.

4519 (3) DEATH BENEFITS.—Under the investment plan ~~Public~~  
4520 ~~Employee Optional Retirement Program~~:

4521 (a) Survivor benefits are ~~shall be~~ payable in accordance  
4522 with the following terms and conditions:

4523 1. To the extent vested, benefits are ~~shall be~~ payable  
4524 only to a member's ~~participant's~~ beneficiary or beneficiaries as  
4525 designated by the member ~~participant~~ as provided in s.  
4526 121.4501(20).

4527 2. Benefits shall be paid by the third-party administrator  
4528 or designated approved providers in accordance with the law, the  
4529 contracts, and any applicable state board rule or policy.

4530 3. To receive benefits under this subsection, the member  
4531 ~~participant~~ must be deceased.

4532 (b) In the event of a member's ~~participant's~~ death, all  
4533 vested accumulations as described in s. 121.4501(6), less  
4534 withholding taxes remitted to the Internal Revenue Service,  
4535 shall be distributed, as provided in paragraph (c) or as  
4536 described in s. 121.4501(20), as if the member ~~participant~~

CS/HB 1405

2011

4537 retired on the date of death. No other death benefits are ~~shall~~  
4538 ~~be~~ available for survivors of members ~~participants~~ under the  
4539 ~~Public Employee Optional Retirement Program~~, except for such  
4540 benefits, or coverage for ~~such~~ benefits, as are otherwise  
4541 provided by law or ~~are~~ separately provided ~~afforded~~ by the  
4542 employer, at the employer's discretion.

4543 (c) Upon receipt by the third-party administrator of a  
4544 properly executed application for distribution of benefits, the  
4545 total accumulated benefit is ~~shall be~~ payable by the third-party  
4546 administrator to the member's ~~participant's~~ surviving  
4547 beneficiary or beneficiaries, as:

4548 1. A lump-sum distribution payable to the beneficiary or  
4549 beneficiaries, or to the deceased member's ~~participant's~~ estate;

4550 2. An eligible rollover distribution, if permitted, on  
4551 behalf of the surviving spouse of a deceased member ~~participant~~,  
4552 whereby all accrued benefits, plus interest and investment  
4553 earnings, are paid from the deceased member's ~~participant's~~  
4554 account directly to the custodian of an eligible retirement  
4555 plan, as described in s. 402(c)(8)(B) of the Internal Revenue  
4556 Code, on behalf of the surviving spouse; or

4557 3. A partial lump-sum payment whereby a portion of the  
4558 accrued benefit is paid to the deceased member's ~~participant's~~  
4559 surviving spouse or other designated beneficiaries, less  
4560 withholding taxes remitted to the Internal Revenue Service, and  
4561 the remaining amount is transferred directly to the custodian of  
4562 an eligible retirement plan, if permitted, as described in s.  
4563 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
4564 surviving spouse. The proportions must be specified by the

CS/HB 1405

2011

4565 member ~~participant~~ or the surviving beneficiary.

4566  
4567 This paragraph does not abrogate other applicable provisions of  
4568 state or federal law providing for payment of death benefits.

4569 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to  
4570 any person under the investment plan ~~Public Employee Optional~~  
4571 ~~Retirement Program~~, and any contributions accumulated under the  
4572 investment plan ~~such program~~, are not subject to assignment,  
4573 execution, attachment, or any legal process, except for  
4574 qualified domestic relations orders by a court of competent  
4575 jurisdiction, income deduction orders as provided in s. 61.1301,  
4576 and federal income tax levies.

4577 Section 23. Section 121.5911, Florida Statutes, is amended  
4578 to read:

4579 121.5911 Disability retirement program; qualified status;  
4580 rulemaking authority.—It is the intent of the Legislature that  
4581 the disability retirement program for members ~~participants~~ of  
4582 the investment plan ~~Public Employee Optional Retirement Program~~  
4583 ~~as created in this act must~~ meet all applicable requirements of  
4584 federal law for a qualified plan. The department ~~of Management~~  
4585 ~~Services~~ shall seek a private letter ruling from the Internal  
4586 Revenue Service on the disability retirement program ~~for~~  
4587 ~~participants of the Public Employee Optional Retirement Program.~~  
4588 Consistent with the private letter ruling, the department ~~of~~  
4589 ~~Management Services~~ shall adopt ~~any necessary~~ rules necessary  
4590 ~~required~~ to maintain the qualified status of the disability  
4591 retirement program and the Florida Retirement System pension  
4592 ~~defined benefit~~ plan.

CS/HB 1405

2011

4593           Section 24. Section 121.70, Florida Statutes, is amended  
4594 to read:

4595           121.70 Legislative purpose and intent.—

4596           (1) This part provides for a uniform system for funding  
4597 benefits provided under the Florida Retirement System Pension  
4598 Plan ~~defined benefit program~~ established under part I of this  
4599 chapter (referred to in this part as the pension plan ~~defined~~  
4600 ~~benefit program~~) and under the Florida Retirement System  
4601 Investment Plan ~~Public Employee Optional Retirement Program~~  
4602 established under part II of this chapter (referred to in this  
4603 part as the investment plan ~~optional retirement program~~). The  
4604 Legislature recognizes and declares that the Florida Retirement  
4605 System is a single retirement system, consisting of two  
4606 retirement plans and other nonintegrated programs. Employees and  
4607 employers participating in the Florida Retirement System  
4608 collectively shall be responsible for making contributions to  
4609 support the benefits provided ~~afforded~~ under both plans. The  
4610 employees and ~~As provided in this part,~~ employers ~~participating~~  
4611 ~~in the Florida Retirement System~~ shall make contributions based  
4612 upon uniform contribution rates determined as a percentage of  
4613 the employee's gross monthly compensation ~~total payroll~~ for the  
4614 employee's ~~each~~ class or subclass of Florida Retirement System  
4615 membership, irrespective of the ~~which~~ retirement plan in which  
4616 the individual employee is enrolled ~~employees may elect~~. This  
4617 shall be known as a uniform or blended contribution rate system.

4618           (2) In establishing a uniform contribution rate system, it  
4619 is the intent of the Legislature to:

4620           (a) Provide greater stability and certainty in financial

CS/HB 1405

2011

4621 planning and budgeting for Florida Retirement System employers  
4622 by eliminating the fiscal instability that would be caused by  
4623 dual rates coupled with employee-selected plan participation;

4624 (b) Provide greater fiscal equity and uniformity for  
4625 system employers by effectively distributing the financial  
4626 burden and benefit of short-term system deficits and surpluses,  
4627 respectively, in proportion to total system payroll; and

4628 (c) Allow employees to make their retirement plan  
4629 selection decisions free of circumstances that may cause  
4630 employers to favor one plan choice over another.

4631 Section 25. Section 121.71, Florida Statutes, is amended  
4632 to read:

4633 121.71 Uniform rates; process; calculations; levy.—

4634 (1) In conducting the system actuarial study required  
4635 under s. 121.031, the actuary shall follow all requirements  
4636 specified ~~thereunder~~ to determine, by Florida Retirement System  
4637 employee membership class, the dollar contribution amounts  
4638 necessary for the next ~~forthcoming~~ fiscal year for the pension  
4639 plan ~~defined benefit program~~. In addition, the actuary shall  
4640 determine, by Florida Retirement System membership class, based  
4641 on an estimate for the next ~~forthcoming~~ fiscal year of the gross  
4642 compensation of employees participating in the investment plan  
4643 ~~optional retirement program~~, the dollar contribution amounts  
4644 necessary to make the allocations required under ss. 121.72 and  
4645 121.73. For each employee membership class and subclass, the  
4646 actuarial study must ~~shall~~ establish a uniform rate necessary to  
4647 fund the benefit obligations under both Florida Retirement  
4648 System retirement plans by dividing the sum of total dollars

CS/HB 1405

2011

4649 required by the estimated gross compensation of members in both  
4650 plans.

4651 (2) Based on the uniform rates set forth in subsections  
4652 ~~subsection~~ (3), (4), and (5), employees and employers shall make  
4653 monthly contributions to the Division of Retirement as required  
4654 in s. 121.061(1), which shall initially deposit the funds into  
4655 the Florida Retirement System Contributions Clearing Trust Fund.  
4656 A change in a contribution rate is effective the first day of  
4657 the month for which a full month's employee and employer  
4658 contribution may be made on or after the beginning date of the  
4659 change. Beginning July 1, 2011, each employee shall contribute  
4660 the contributions required in subsection (3). The employer shall  
4661 deduct the contribution from the employee's monthly salary, and  
4662 the contribution shall be submitted to the Division of  
4663 Retirement. These contributions shall be reported as employer-  
4664 paid employee contributions, and shall be credited to the  
4665 account of the employee. The contributions shall be deducted  
4666 from the employee's salary before the computation of applicable  
4667 federal taxes and shall be treated as employer contributions  
4668 under 26 U.S.C. s. 414(h) (2). The contributions, although  
4669 designated as employee contributions, are being paid by the  
4670 employer in lieu of contributions by the employee. The employee  
4671 shall not have the option of choosing to receive the contributed  
4672 amounts directly instead of having them paid by the employer to  
4673 the plan. Such contributions are mandatory and each employee  
4674 shall be considered to consent to payroll deductions. Payment of  
4675 an employee's salary or wages, less the contribution, is a full  
4676 and complete discharge and satisfaction of all claims and

CS/HB 1405

2011

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, 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:



CS/HB 1405

2011

	Membership Class	Percentage of Gross Compensation, Effective July 1, <u>2011</u> <del>2009</del>	<del>Percentage of Gross Compensation, Effective July 1, 2010</del>
4694			
4695			
4696	Regular Class	<u>5.23%</u> <del>8.69%</del>	<del>9.63%</del>
4697	Special Risk Class	<u>17.45%</u> <del>19.76%</del>	<del>22.11%</del>
	Special Risk Administrative Support Class	<u>7.12%</u> <del>11.39%</del>	<del>12.10%</del>
4698			
	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>5.95%</u> <del>13.32%</del>	<del>15.20%</del>
4699			
	Elected Officers' Class— Justices, Judges	<u>7.26%</u> <del>18.40%</del>	<del>20.65%</del>
4700			

CS/HB 1405

2011

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>
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DROP	<u>11.14%</u>	<del>9.80%</del>	<del>11.14%</del>
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(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> <u>Gross</u> <u>Compensation,</u> <u>Effective</u> <u>July 1, 2011</u>	<u>Percentage of</u> <u>Gross</u> <u>Compensation,</u> <u>Effective</u> <u>July 1, 2012</u>
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<u>Regular Class</u>	<u>0.00%</u>	<u>1.94%</u>
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<u>Special Risk Class</u>	<u>0.00%</u>	<u>5.62%</u>
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<u>Special Risk Administrative</u> <u>Support Class</u>	<u>0.00%</u>	<u>5.80%</u>
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CS/HB 1405

2011

<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>		

4714

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

4715

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

4716

<u>Senior Management Class</u>	<u>0.00%</u>	<u>9.93%</u>
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4717

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

4718

4719       (6) If a member is reported under an incorrect membership  
 4720 class and the amount of contributions reported and remitted are  
 4721 less than the amount required, the employer shall owe the  
 4722 difference, plus the delinquent fee, of 1 percent for each  
 4723 calendar month or part thereof that the contributions should  
 4724 have been paid. This delinquent assessment may not be waived. If  
 4725 the contributions reported and remitted are more than the amount  
 4726 required, the employer shall receive a credit to be applied  
 4727 against future contributions owed.

4728       (7)~~(4)~~ The state actuary shall recognize and use an  
 4729 appropriate level of available excess assets of the Florida

CS/HB 1405

2011

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

Section 26. 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

CS/HB 1405

2011

4758 proceeds are distributed.  
 4759       (4) (a) Effective July 1, 2002, through June 30, 2011,  
 4760 allocations from the Florida Retirement System Contributions  
 4761 Clearing Trust Fund to investment plan member ~~optional~~  
 4762 ~~retirement program participant~~ accounts shall be as follows:  
 4763

Membership Class	Percentage of Gross Compensation
------------------	--

Regular Class	9.00%
Special Risk Class	20.00%
Special Risk Administrative Support Class	11.35%
Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.40%
Elected Officers' Class— Justices, Judges	18.90%
Elected Officers' Class—	16.20%

CS/HB 1405

2011

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 20 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 27. 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

CS/HB 1405

2011

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 Gross Compensation
Regular Class	0.25%
Special Risk Class	1.33%
Special Risk Administrative Support Class	0.45%
Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
Elected Officers' Class—	0.73%

CS/HB 1405

2011

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 28. 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~~ 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



CS/HB 1405

2011

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 29. 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 30. 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,

CS/HB 1405

2011

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 31. 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

CS/HB 1405

2011

4892 ~~defined benefit program shall~~ be deposited in the Florida  
4893 Retirement System Trust Fund, and proceeds from the 1-percent  
4894 assessment against contributions made on behalf of members  
4895 ~~participants~~ of the investment plan ~~optional retirement program~~  
4896 shall be transferred to the third-party administrator for  
4897 deposit into member ~~participant~~ accounts, as provided in  
4898 paragraph (c) ~~(b)~~.

4899 (b) Retirement contributions paid for a prior period shall  
4900 be charged a delinquent fee of 1 percent for each calendar month  
4901 or part thereof that the contributions should have been paid.  
4902 This includes prior period contributions due to incorrect wages  
4903 and contributions from an earlier report or wages and  
4904 contributions that should have been reported but were not. The  
4905 delinquent assessments may not be waived.

4906 (c) ~~(b)~~ If employee contributions or contributions made by  
4907 an employer on behalf of members ~~participants~~ of the investment  
4908 plan ~~optional retirement program~~ or accompanying payroll data  
4909 are not received within the calendar month they are due,  
4910 including, but not limited to, contribution adjustments as a  
4911 result of employer errors or corrections, and if that  
4912 delinquency results in market losses to members ~~participants~~,  
4913 the employer shall reimburse each member's ~~participant's~~ account  
4914 for market losses resulting from the late contributions. If a  
4915 member ~~participant~~ has terminated employment and taken a  
4916 distribution, the member ~~participant~~ is responsible for  
4917 returning any excess contributions erroneously provided by  
4918 employers, adjusted for any investment gain or loss incurred  
4919 during the period such excess contributions were in the member's

CS/HB 1405

2011

4920 ~~participant's~~ account. The state board or its designated agent  
4921 shall communicate to terminated members ~~participants~~ any  
4922 obligation to repay such excess contribution amounts. However,  
4923 the state board, its designated agents, the Florida Retirement  
4924 System Investment Plan ~~Public Employee Optional Retirement~~  
4925 ~~Program~~ Trust Fund, the department, or the Florida Retirement  
4926 System Trust Fund may not incur any loss or gain as a result of  
4927 an employer's correction of such excess contributions. The  
4928 third-party administrator, hired by the state board pursuant to  
4929 s. 121.4501(8), shall calculate the market losses for each  
4930 affected member ~~participant~~. If contributions made on behalf of  
4931 members ~~participants~~ of the investment plan ~~optional retirement~~  
4932 ~~program~~ or accompanying payroll data are not received within the  
4933 calendar month due, the employer shall also pay the cost of the  
4934 third-party administrator's calculation and reconciliation  
4935 adjustments resulting from the late contributions. The third-  
4936 party administrator shall notify the employer of the results of  
4937 the calculations and the total amount due from the employer for  
4938 such losses and the costs of calculation and reconciliation. The  
4939 employer shall remit to the Division of Retirement the amount  
4940 due within 30 working days after the date of the penalty notice  
4941 sent by the division. The division shall transfer that amount to  
4942 the third-party administrator, which shall deposit proceeds from  
4943 the 1-percent assessment and from individual market losses into  
4944 member ~~participant~~ accounts, as appropriate. The state board may  
4945 adopt rules to administer the provisions regarding late  
4946 contributions, late submission of payroll data, the process for  
4947 reimbursing member ~~participant~~ accounts for resultant market

CS/HB 1405

2011

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

CS/HB 1405

2011

4976 due to acts of God beyond the control of the Division of  
4977 Retirement, the state board, or the third-party administrator,  
4978 as applicable, market losses resulting from the late  
4979 contributions are not payable to the members ~~participants~~.

4980       Section 32. (1) Effective upon this act becoming a law,  
4981 the State Board of Administration and the Department of  
4982 Management Services shall request, as soon as practicable, a  
4983 determination letter and private letter ruling from the United  
4984 States Internal Revenue Service. If the United States Internal  
4985 Revenue Service refuses to act upon a request for a private  
4986 letter ruling, then a legal opinion from a qualified tax  
4987 attorney or firm may be substituted for such private letter  
4988 ruling.

4989       (2) If the board or the department receives notification  
4990 from the United States Internal Revenue Service that this act or  
4991 any portion of this act will cause the Florida Retirement  
4992 System, or a portion thereof, to be disqualified for tax  
4993 purposes under the Internal Revenue Code, then the portion that  
4994 will cause the disqualification does not apply. Upon such  
4995 notice, the state board and the department shall notify the  
4996 presiding officers of the Legislature.

4997       Section 33. The Legislature finds that a proper and  
4998 legitimate state purpose is served when employees and retirees  
4999 of the state and its political subdivisions, and the dependents,  
5000 survivors, and beneficiaries of such employees and retirees, are  
5001 extended the basic protections afforded by governmental  
5002 retirement systems. These persons must be provided benefits that  
5003 are fair and adequate and that are managed, administered, and

CS/HB 1405

2011

5004   funded in an actuarially sound manner, as required by s. 14,  
5005   Article X of the State Constitution and part VII of chapter 112,  
5006   Florida Statutes. Therefore, the Legislature determines and  
5007   declares that this act fulfills an important state interest.

5008       Section 34. For the 2011-2012 fiscal year, the sums of  
5009   \$93,103 of recurring funds and \$534,000 of nonrecurring funds  
5010   from the Florida Retirement System Operating Trust Fund are  
5011   appropriated to, and two full-time equivalent positions are  
5012   authorized for, the Division of Retirement within the Department  
5013   of Management Services for the purpose of implementing this act.

5014       Section 35. Except as otherwise expressly provided in this  
5015   act, this act shall take effect July 1, 2011.