

1 A bill to be entitled
2 An act relating to retirement; amending ss. 110.123,
3 112.363, and 112.65, F.S.; conforming provisions to
4 changes made by the act; amending s. 121.021, F.S.;
5 revising definitions; amending s. 121.051, F.S.; requiring
6 that a local governmental entity or the governing body of
7 a charter school or charter technical career center make
8 certain elections regarding benefits at the time the
9 entity or governing body joins the Florida Retirement
10 System; providing that employer-paid employee
11 contributions are subject to certain taxes; amending s.
12 121.0515, F.S.; redefining membership in the Special Risk
13 Class; redefining criteria for Special Risk Class
14 membership; providing procedures for designation and
15 removal of designation of Special Risk Class members;
16 providing for employee contributions to be used, if
17 applicable, when purchasing credit for past service;
18 amending s. 121.052, F.S., relating to the membership
19 class of elected officers; conforming provisions to
20 changes made by the act; requiring member contributions;
21 providing for a refund of contributions under certain
22 circumstances for an officer who leaves office; providing
23 that a member who obtains a refund of contributions waives
24 certain rights under the Florida Retirement System;
25 amending s. 121.053, F.S.; clarifying the employer
26 contributions required for Elected Officers' Class members
27 who participate in the Deferred Retirement Option Program;
28 amending s. 121.055, F.S., relating to the Senior

29 Management Service Class; conforming provisions to changes
30 made by the act; requiring employee contributions;
31 providing for a refund of contributions under certain
32 circumstances for a member who terminates employment;
33 providing that a member who obtains a refund of
34 contributions waives certain rights under the Florida
35 Retirement System; limiting the payment of benefits prior
36 to a participant's termination of employment; amending s.
37 121.071, F.S.; requiring employee and employer
38 contributions to the retirement system effective July 1,
39 2011; providing for a refund of contributions under
40 certain circumstances following termination of employment;
41 prohibiting such refund if an approved qualified domestic
42 relations order is filed against the participant's
43 retirement account; requiring repayment plus interest of
44 an invalid refund; amending s. 121.081, F.S.; providing
45 and revising requirements for contributions for prior
46 service performed on or after July 1, 2011; amending s.
47 121.091, F.S.; modifying the monthly benefit calculation
48 for those members retiring on or after July 1, 2011, to
49 reflect the change in normal retirement age; providing for
50 the refund of accumulated contributions if a member's
51 employment is terminated for any reason other than
52 retirement; closing the Deferred Retirement Option Program
53 to new participants on July 1, 2011; amending s. 121.121,
54 F.S., relating to the purchase of creditable service
55 following an authorized leave of absence; requiring that
56 service credit be purchased at the employee and employer

57 contribution rates in effect during the leave of absence
58 effective a certain date; amending s. 121.125, F.S.;
59 requiring that certain employers make the required
60 employee and employer retirement contributions following
61 an employee's workers' compensation injury or illness;
62 requiring that a penalty be assessed against certain
63 employers that fail to pay the required contributions;
64 reenacting s. 121.161, F.S., relating to the references of
65 other laws as amended; amending s. 121.35, F.S., relating
66 to the optional retirement program for the State
67 University System; limiting the payment of benefits prior
68 to a participant's termination of employment; amending s.
69 121.4501, F.S.; changing the name of the Public Employee
70 Optional Retirement Program to the Florida Retirement
71 System Investment Plan; requiring members of the Florida
72 Retirement System Investment Plan to make certain
73 contributions to the Florida Retirement System Investment
74 Plan Trust Fund based on the employee's membership class;
75 revising and providing definitions; revising the benefit
76 commencement age for a member enrolled on or after July 1,
77 2011; providing for contribution adjustments as a result
78 of employer errors or corrections; requiring an employer
79 to receive a credit for excess contributions and to
80 reimburse an employee for excess contributions, subject to
81 certain limitations; providing for a pension plan
82 participant to retain his or her prior plan choice
83 following a return to employment; limiting certain refunds
84 of contributions which exceed the amount that would have

85 accrued had the member remained in the defined benefit
86 program; providing certain requirements and limitations
87 with respect to contributions; clarifying that participant
88 and employer contributions are earmarked for specified
89 purposes; providing duties of the third-party
90 administrator; providing that a member is fully and
91 immediately vested with respect to employee contributions
92 paid by the member; providing for the forfeiture of
93 nonvested employer contributions and service credit under
94 certain circumstances; amending s. 121.4502, F.S.;
95 changing the name of the Public Employee Optional
96 Retirement Program Trust Fund to the Florida Retirement
97 System Investment Plan Trust Fund; amending s. 121.4503,
98 F.S.; providing for the deposit of participant
99 contributions into the Florida Retirement System
100 Contributions Clearing Trust Fund; amending s. 121.571,
101 F.S.; providing requirements for submitting employee
102 contributions; amending s. 121.591, F.S.; limiting the
103 payment of benefits prior to a participant's termination
104 of employment; providing for the forfeiture of nonvested
105 accumulations and service credits upon payment of certain
106 vested benefits; providing that the distribution payment
107 method selected by the participant or beneficiary is final
108 and irrevocable at the time of benefit distribution;
109 prohibiting a distribution of employee contributions if a
110 qualified domestic relations order is filed against the
111 participant's account; amending s. 121.5911, F.S.;
112 conforming provisions to changes made by the act; amending

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s. 121.70, F.S.; revising legislative intent; amending s. 121.71, F.S.; requiring that employee contributions be deducted from the employee's monthly salary, beginning on a specified date, and treated as employer contributions under certain provisions of federal law; clarifying that an employee may not receive such contributions directly; specifying the required employee retirement contribution rates for the membership of each membership class and subclass of the Florida Retirement System; specifying the required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System in order to address unfunded actuarial liabilities of the system; requiring an assessment to be imposed if the employee contributions remitted are less than the amount required under certain circumstances; providing for the employer to receive a credit for excess contributions remitted and to apply such credit against future contributions owed; amending ss. 121.72, 121.73, 121.74, 121.75, and 121.77, F.S.; conforming provisions to changes made by the act; amending s. 121.78, F.S.; revising certain requirements for administering the payment and distribution of contributions; requiring that certain fees be imposed for delinquent payments; providing that an employer is responsible for recovering any refund provided to an employee in error; revising the terms of an authorized waiver of delinquency; requiring an employer to receive a credit for excess contributions and to reimburse an employee for excess contributions, subject to certain

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141 limitations; requiring the State Board of Administration
142 and the Department of Management Services to request a
143 determination letter and private letter ruling from the
144 United States Internal Revenue Service; providing for
145 severability; providing legislative findings; providing
146 that the act fulfills an important state interest;
147 providing appropriations to and authorizing additional
148 positions for the Division of Retirement within the
149 Department of Management Services; providing an effective
150 date.

151
152 Be It Enacted by the Legislature of the State of Florida:

153
154 Section 1. Paragraph (g) of subsection (2) of section
155 110.123, Florida Statutes, is amended to read:

156 110.123 State group insurance program.—

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

158 (g) "Retired state officer or employee" or "retiree" means
159 any state or state university officer or employee who retires
160 under a state retirement system or a state optional annuity or
161 retirement program or is placed on disability retirement, and
162 who was insured under the state group insurance program at the
163 time of retirement, and who begins receiving retirement benefits
164 immediately after retirement from state or state university
165 office or employment. The term also includes ~~In addition to~~
166 ~~these requirements,~~ any state officer or state employee who
167 retires under the Florida Retirement System Investment Plan
168 ~~Public Employee Optional Retirement Program~~ established under

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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. Paragraph (b) of subsection (2) and paragraph (e) of subsection (3) of section 112.363, Florida Statutes, are amended 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 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

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benefits from the pension plan ~~defined benefit program of the Florida Retirement System.~~

(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 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

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

Section 3. 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

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253 in individual member ~~participant~~ accounts established under the
254 investment plan ~~Public Employee Optional Retirement Program~~
255 established in part II of chapter 121 are considered
256 supplemental benefits. As used in this section, the term
257 "average final compensation" means the average of the member's
258 earnings over a period of time which the governmental entity has
259 established by statute, charter, or ordinance.

260 Section 4. Subsections (3) and (15), paragraph (a) of
261 subsection (19), paragraph (b) of subsection (22), and
262 subsections (29), (38), (39), (55), and (59) of section 121.021,
263 Florida Statutes, are amended to read:

264 121.021 Definitions.—The following words and phrases as
265 used in this chapter have the respective meanings set forth
266 unless a different meaning is plainly required by the context:

267 (3) "System" means the general retirement system
268 established by this chapter to be known and cited as the
269 "Florida Retirement System," including, but not limited to, the
270 defined benefit ~~retirement~~ program administered under ~~the~~
271 ~~provisions of part I of this part,~~ referred to as the "Florida
272 Retirement System Pension Plan" or "pension plan" ~~chapter~~ and
273 the defined contribution ~~retirement~~ program ~~known as the Public~~
274 ~~Employee Optional Retirement Program and~~ administered under ~~the~~
275 ~~provisions of part II of this chapter,~~ referred to as the
276 "Florida Retirement System Investment Plan" or "investment
277 plan".

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

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Special Risk Class.

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

~~(b) Effective October 1, 1978, "special risk member" means a member of the Florida Retirement System who is designated as a special risk member by the division in accordance with s. 121.0515. Such member must be employed as a law enforcement officer, a firefighter, or a correctional officer and must meet certain other special criteria as set forth in s. 121.0515.~~

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

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

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309 ~~set forth in s. 121.0515(2)(e).~~

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

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

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

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

323 (a) Service for which the member had credit under one of
324 the existing systems and received a refund of his or her
325 contributions upon termination of employment. Prior service
326 ~~shall also~~ includes ~~include that service between December 1,~~
327 ~~1970, and the date the system becomes noncontributory~~ for which
328 the member had credit under the Florida Retirement System and
329 received a refund of his or her contributions upon termination
330 of employment.

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

334 (b) ~~Under no circumstances shall~~ Compensation for a member
335 participating in the pension plan ~~defined benefit retirement~~
336 ~~program~~ or the investment plan ~~Public Employee Optional~~

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337 ~~Retirement Program~~ of the Florida Retirement System may not
338 include:

339 1. Fees paid professional persons for special or
340 particular services or ~~include~~ salary payments made from a
341 faculty practice plan authorized by the Board of Governors of
342 the State University System for eligible clinical faculty at a
343 college in a state university that has a faculty practice plan;
344 or

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

348 (29) "Normal retirement date" means the date a member
349 attains normal retirement age and is vested, which is determined
350 as follows:

351 (a) 1. If a Regular Class member, a Senior Management
352 Service Class member, or an Elected Officers' Class member
353 initially enrolled before July 1, 2011:

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

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

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

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

364 b. The first day of the month following the date the

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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.

2. If a Special Risk 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 in the Special Risk Class and attains age 60;

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

c. The first day of the month following the date the member completes 30 years of creditable service and attains age 57, which service may include a maximum of 4 years of military service credit as long as such credit is not claimed under any

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393 other system and the remaining years are in the Special Risk
394 Class.

395
396 "Normal retirement age" is attained on the "normal retirement
397 date."

398 (38) "Continuous service" means creditable service as a
399 member, beginning with the first day of employment with an
400 employer covered under a state-administered retirement system
401 consolidated herein and continuing for as long as the member
402 remains in an employer-employee relationship with an employer
403 covered under this chapter. An absence of 1 calendar month or
404 more from an employer's payroll shall be considered a break in
405 continuous service, except for periods of absence during which
406 an employer-employee relationship continues to exist and such
407 period of absence is creditable under this chapter or under one
408 of the existing systems consolidated herein. However, a law
409 enforcement officer as defined in s. 121.0515(3)~~(2)~~(a) who was a
410 member of a state-administered retirement system under chapter
411 122 or chapter 321 and who resigned and was subsequently
412 reemployed in a law enforcement position within 12 calendar
413 months of such resignation by an employer under such state-
414 administered retirement system shall be deemed to have not
415 experienced a break in service. Further, with respect to a
416 state-employed law enforcement officer who meets the criteria
417 specified in s. 121.0515(3)~~(2)~~(a), if the absence from the
418 employer's payroll is the result of a "layoff" as defined in s.
419 110.107 or a resignation to run for an elected office that meets
420 the criteria specified in s. 121.0515(3)~~(2)~~(a), no break in

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continuous service shall be deemed to have occurred if the member is reemployed as a state law enforcement officer or is elected to an office which meets the criteria specified in s. 121.0515(3)~~(2)~~(a) within 12 calendar months after the date of the layoff or resignation, notwithstanding the fact that such period of layoff or resignation is not creditable service under this chapter. A withdrawal of contributions will constitute a break in service. Continuous service also includes past service purchased under this chapter, provided such service is continuous within this definition and the rules established by the administrator. The administrator may establish administrative rules and procedures for applying this definition to creditable service authorized under this chapter. Any correctional officer, as defined in s. 943.10, whose participation in the state-administered retirement system is terminated due to the transfer of a county detention facility through a contractual agreement with a private entity pursuant to s. 951.062, shall be deemed an employee with continuous service in the Special Risk Class, provided return to employment with the former employer takes place within 3 years due to contract termination or the officer is employed by a covered employer in a special risk position within 1 year after his or her initial termination of employment by such transfer of its detention facilities to the private entity.

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

1. For retirements effective before July 1, 2010, if a

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

457 2. For retirements effective on or after July 1, 2010, if
458 a member is employed by any such employer within the next 6
459 calendar months, termination shall be deemed not to have
460 occurred. A leave of absence constitutes a continuation of the
461 employment relationship, except that a leave of absence without
462 pay due to disability may constitute termination if such member
463 makes application for and is approved for disability retirement
464 in accordance with s. 121.091(4). The department or state board
465 may require other evidence of termination as it deems necessary.

466 (b) "Termination" for a member electing to participate in
467 the Deferred Retirement Option Program occurs when the program
468 participant ceases all employment relationships with
469 participating employers ~~an employer~~ in accordance with s.
470 121.091(13), however:

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

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

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

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

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

Section 5. Paragraphs (b) and (c) of subsection (2) and subsection (3) of section 121.051, Florida Statutes, are amended to read:

121.051 Participation in the system.—

(2) OPTIONAL PARTICIPATION.—

(b)1. The governing body of any municipality, metropolitan planning organization, or special district in the state may elect to participate in the system upon proper application to the administrator and may cover all or any of its units as approved by the Secretary of Health and Human Services and the administrator. The department shall adopt rules establishing

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505 procedures ~~provisions~~ for the submission of documents necessary
506 for such application. Prior to being approved for participation
507 in the Florida Retirement System, the governing body of a ~~any~~
508 ~~such~~ municipality, metropolitan planning organization, or
509 special district that has a local retirement system must ~~shall~~
510 submit to the administrator a certified financial statement
511 showing the condition of the local retirement system as of a
512 date within 3 months prior to the proposed effective date of
513 membership in the Florida Retirement System. The statement must
514 be certified by a recognized accounting firm that is independent
515 of the local retirement system. All required documents necessary
516 for extending Florida Retirement System coverage must be
517 received by the department for consideration at least 15 days
518 prior to the proposed effective date of coverage. If the
519 municipality, metropolitan planning organization, or special
520 district does not comply with this requirement, the department
521 may require that the effective date of coverage be changed.

522 2. Any city, metropolitan planning organization, or
523 special district that has an existing retirement system covering
524 the employees in the units that are to be brought under the
525 Florida Retirement System may participate only after holding a
526 referendum in which all employees in the affected units have the
527 right to participate. Only those employees electing coverage
528 under the Florida Retirement System by affirmative vote in said
529 referendum shall be eligible for coverage under this chapter,
530 and those not participating or electing not to be covered by the
531 Florida Retirement System shall remain in their present systems
532 and shall not be eligible for coverage under this chapter. After

533 the referendum is held, all future employees shall be compulsory
534 members of the Florida Retirement System.

535 3. At the time of joining the Florida Retirement System,
536 the governing body of any city, metropolitan planning
537 organization, or special district complying with subparagraph 1.
538 may elect to provide, or not provide, benefits based on past
539 service of officers and employees as described in s. 121.081(1).
540 However, if such employer elects to provide past service
541 benefits, such benefits must be provided for all officers and
542 employees of its covered group.

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

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

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

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

569 c. The governing body of a ~~any~~ hospital district seeking
570 to partially withdraw from the system must, before such hearing,
571 have an actuarial report prepared and certified by an enrolled
572 actuary, as defined in s. 112.625(3), illustrating the cost to
573 the hospital district of providing, through the retirement plan
574 that the hospital district is to adopt, benefits for new
575 employees comparable to those provided under the Florida
576 Retirement System.

577 d. Upon meeting all applicable requirements of this
578 subparagraph, and subject to the conditions set forth in
579 subparagraph 6., partial withdrawal from the system and adoption
580 of the alternative retirement plan may be accomplished by
581 resolution duly adopted by the hospital district board. The
582 hospital district board must provide written notice of such
583 withdrawal to the division by mailing a copy of the resolution
584 to the division, postmarked by ~~no later than~~ December 15, 1995.
585 The withdrawal shall take effect January 1, 1996.

586 6. Following the adoption of a resolution under sub-
587 subparagraph 5.d., all employees of the withdrawing hospital
588 district who were participants in the Florida Retirement System

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589 before ~~prior to~~ January 1, 1996, shall remain as participants in
590 the system for as long as they are employees of the hospital
591 district, and all rights, duties, and obligations between the
592 hospital district, the system, and the employees shall remain in
593 full force and effect. Any employee who is hired or appointed on
594 or after January 1, 1996, may not participate in the Florida
595 Retirement System, and the withdrawing hospital district shall
596 have no obligation to the system with respect to such employees.

597 (c) Employees of public community colleges or charter
598 technical career centers sponsored by public community colleges,
599 designated in s. 1000.21(3), who are members of the Regular
600 Class of the Florida Retirement System and who comply with the
601 criteria set forth in this paragraph and s. 1012.875 may, in
602 lieu of participating in the Florida Retirement System, elect to
603 withdraw from the system altogether and participate in the State
604 Community College System Optional Retirement Program provided by
605 the employing agency under s. 1012.875.

606 1. Through June 30, 2001, the cost to the employer for
607 benefits under the optional retirement program ~~such annuity~~
608 equals the normal cost portion of the employer retirement
609 contribution which would be required if the employee were a
610 member of the pension plan's Regular Class ~~defined benefit~~
611 ~~program~~, plus the portion of the contribution rate required by
612 s. 112.363(8) which would otherwise be assigned to the Retiree
613 Health Insurance Subsidy Trust Fund. Effective July 1, 2001,
614 each employer shall contribute on behalf of each participant in
615 the optional program an amount equal to 10.43 percent of the
616 participant's gross monthly compensation. The employer shall

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

a. 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 Community College System~~ optional retirement program are retained by the employee in the ~~State Community College System~~ optional retirement program, and the applicable provisions of s. 121.4501(4) govern the election.

b. If the employee chooses to move to the pension plan

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645 ~~defined benefit program~~ of the Florida Retirement System, the
646 employee shall receive service credit equal to his or her years
647 of service under the ~~State Community College System~~ optional
648 retirement program.

649 (I) The cost for such credit is the amount representing
650 the present value of the employee's accumulated benefit
651 obligation for the affected period of service. The cost shall be
652 calculated as if the benefit commencement occurs on the first
653 date the employee becomes eligible for unreduced benefits, using
654 the discount rate and other relevant actuarial assumptions that
655 were used to value the Florida Retirement System pension ~~defined~~
656 ~~benefit~~ plan liabilities in the most recent actuarial valuation.
657 The calculation must include any service already maintained
658 under the pension ~~defined benefit~~ plan in addition to the years
659 under the ~~State Community College System~~ optional retirement
660 program. The present value of any service already maintained
661 must be applied as a credit to total cost resulting from the
662 calculation. The division shall ensure that the transfer sum is
663 prepared using a formula and methodology certified by an
664 enrolled actuary.

665 (II) The employee must transfer from his or her ~~State~~
666 ~~Community College System~~ optional retirement program account and
667 from other employee moneys as necessary, a sum representing the
668 present value of the employee's accumulated benefit obligation
669 immediately following the time of such movement, determined
670 assuming that attained service equals the sum of service in the
671 pension plan ~~defined benefit program~~ and service in the ~~State~~
672 ~~Community College System~~ optional retirement program.

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673 4. Participation in the optional retirement program is
674 limited to employees who satisfy the following eligibility
675 criteria:

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

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

683 (I) Instructional; or

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

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

696 5. Participants in the program are subject to the same
697 reemployment limitations, renewed membership provisions, and
698 forfeiture provisions as are applicable to regular members of
699 the Florida Retirement System under ss. 121.091(9), 121.122, and
700 121.091(5), respectively. A participant who receives a program

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701 distribution funded by employer contributions shall be deemed to
702 be retired from a state-administered retirement system if the
703 participant is subsequently employed with an employer that
704 participates in the Florida Retirement System.

705 6. Eligible community college employees are compulsory
706 members of the Florida Retirement System until, pursuant to s.
707 1012.875, a written election to withdraw from the system and
708 participate in the ~~State Community College System~~ optional
709 retirement program is filed with the program administrator and
710 received by the division.

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

720 b. A community college employee whose program eligibility
721 is due to the subsequent designation of the employee's position
722 as one of those specified in subparagraph 4., or due to the
723 employee's appointment, promotion, transfer, or reclassification
724 to a position specified in subparagraph 4., must be enrolled in
725 the program on the first day of the first full calendar month
726 that such change in status becomes effective. The employer
727 retirement contributions paid from the effective date through
728 the month of the employee plan change must be transferred to the

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

(3) SOCIAL SECURITY COVERAGE.—Social security coverage
shall be provided for all officers and employees who become
members under the provisions of subsection (1) or subsection
(2). Any modification of the present agreement with the Social
Security Administration, or referendum required under the Social
Security Act, for the purpose of providing social security
coverage for any member shall be requested by the state agency
in compliance with the applicable provisions of the Social
Security Act governing such coverage. However, retroactive

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757 social security coverage for service prior to December 1, 1970,
758 with the employer shall not be provided for a ~~any~~ member who was
759 not covered under the agreement as of November 30, 1970. The
760 employer-paid employee contributions specified in s. 121.71(2)
761 are subject to taxes imposed under the Federal Insurance
762 Contributions Act, 26 U.S.C. ss. 3101-3128.

763 Section 6. Section 121.0515, Florida Statutes, is amended
764 to read:

765 121.0515 Special Risk Class ~~membership~~.—

766 (1) ESTABLISHMENT OF CLASS ~~LEGISLATIVE INTENT~~.—There is
767 established a separate ~~In creating the Special Risk~~ class of
768 membership within the Florida Retirement System, to be known as
769 the "Special Risk Class," ~~it is the intent and purpose of the~~
770 ~~Legislature~~ to recognize that persons employed in certain
771 categories of law enforcement, firefighting, criminal detention,
772 and emergency medical care positions are required as one of the
773 essential functions of their positions to perform work that is
774 physically demanding or arduous, or work that requires
775 extraordinary agility and mental acuity, and that such persons,
776 because of diminishing physical and mental faculties, may find
777 that they are not able, without risk to the health and safety of
778 themselves, the public, or their coworkers, to continue
779 performing such duties and thus enjoy the full career and
780 retirement benefits enjoyed by persons employed in other
781 membership classes ~~positions~~ and that, if they find it
782 necessary, due to the physical and mental limitations of their
783 age, to retire at an earlier age and usually with less service,
784 they will suffer an economic deprivation therefrom. To address

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785 ~~Therefore, as a means of recognizing~~ the peculiar and special
786 problems of this class of employees, ~~it is the intent and~~
787 ~~purpose of the Legislature to establish~~ a class of retirement
788 membership is established that awards more retirement credit per
789 year of service than that awarded to other employees; however,
790 nothing contained herein shall require ineligibility for Special
791 Risk Class membership upon reaching age 55.

792 (2) MEMBERSHIP.—

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

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

811 (c) Effective October 1, 1999, "special risk member" means
812 a member of the Florida Retirement System who is designated as a

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special risk member by the division in accordance with this section. Such member must be employed as a law enforcement officer, a firefighter, a correctional officer, an emergency medical technician, or a paramedic and must meet certain other special criteria as set forth in this section.

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

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 paragraph (3)(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 paragraph (3)(g).

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

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

(a) Effective October 1, 1978, the member must be employed as a law enforcement officer and be certified, or required to be certified, in compliance with s. 943.1395; however, sheriffs and elected police chiefs shall be excluded from meeting the certification requirements of this paragraph. In addition, the

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member's duties and responsibilities must include the pursuit, apprehension, and arrest of law violators or suspected law violators; or as of July 1, 1982, the member must be an active member of a bomb disposal unit whose primary responsibility is the location, handling, and disposal of explosive devices; or the member must be the supervisor or command officer of a member or members who have such responsibilities; provided, however, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall not be included;

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

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869 legal, and personnel, shall not be included and further provided
870 that all periods of creditable service in fire prevention or
871 firefighter training, or as the supervisor or command officer of
872 a member or members who have such responsibilities, and for
873 which the employer paid the special risk contribution rate,
874 shall be included;

875 (c) Effective October 1, 1978, the member must be employed
876 as a correctional officer and be certified, or required to be
877 certified, in compliance with s. 943.1395. In addition, the
878 member's primary duties and responsibilities must be the
879 custody, and physical restraint when necessary, of prisoners or
880 inmates within a prison, jail, or other criminal detention
881 facility, or while on work detail outside the facility, or while
882 being transported; or as of July 1, 1984, the member must be the
883 supervisor or command officer of a member or members who have
884 such responsibilities; provided, however, administrative support
885 personnel, including, but not limited to, those whose primary
886 duties and responsibilities are in accounting, purchasing,
887 legal, and personnel, shall not be included; however, wardens
888 and assistant wardens, as defined by rule, shall participate in
889 the Special Risk Class;

890 (d) Effective October 1, 1999, the member must be employed
891 by a licensed Advance Life Support (ALS) or Basic Life Support
892 (BLS) employer as an emergency medical technician or a paramedic
893 and be certified in compliance with s. 401.27. In addition, the
894 member's primary duties and responsibilities must include on-
895 the-scene emergency medical care or as of October 1, 2001,
896 direct supervision of emergency medical technicians or

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paramedics, or the member must be the supervisor or command officer of one or more members who have such responsibility. However, administrative support personnel, including, but not limited to, those whose primary responsibilities are in accounting, purchasing, legal, and personnel, shall not be included;

(e) Effective January 1, 2001, the member must be employed as a community-based correctional probation officer and be certified, or required to be certified, in compliance with s. 943.1395. In addition, the member's primary duties and responsibilities must be the supervised custody, surveillance, control, investigation, and counseling of assigned inmates, probationers, parolees, or community controllees within the community; or the member must be the supervisor of a member or members who have such responsibilities. Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal services, and personnel management, shall not be included; however, probation and parole circuit and deputy circuit administrators shall participate in the Special Risk Class;

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

1. Dietitian (class codes 5203 and 5204);
2. Public health nutrition consultant (class code 5224);
3. Psychological specialist (class codes 5230 and 5231);

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- 925 4. Psychologist (class code 5234);
- 926 5. Senior psychologist (class codes 5237 and 5238);
- 927 6. Regional mental health consultant (class code 5240);
- 928 7. Psychological Services Director—DCF (class code 5242);
- 929 8. Pharmacist (class codes 5245 and 5246);
- 930 9. Senior pharmacist (class codes 5248 and 5249);
- 931 10. Dentist (class code 5266);
- 932 11. Senior dentist (class code 5269);
- 933 12. Registered nurse (class codes 5290 and 5291);
- 934 13. Senior registered nurse (class codes 5292 and 5293);
- 935 14. Registered nurse specialist (class codes 5294 and
- 936 5295);
- 937 15. Clinical associate (class codes 5298 and 5299);
- 938 16. Advanced registered nurse practitioner (class codes
- 939 5297 and 5300);
- 940 17. Advanced registered nurse practitioner specialist
- 941 (class codes 5304 and 5305);
- 942 18. Registered nurse supervisor (class codes 5306 and
- 943 5307);
- 944 19. Senior registered nurse supervisor (class codes 5308
- 945 and 5309);
- 946 20. Registered nursing consultant (class codes 5312 and
- 947 5313);
- 948 21. Quality management program supervisor (class code
- 949 5314);
- 950 22. Executive nursing director (class codes 5320 and
- 951 5321);
- 952 23. Speech and hearing therapist (class code 5406); or

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24. Pharmacy manager (class code 5251);

(g) Effective July 1, 2001, the member must be employed as a youth custody officer and be certified, or required to be certified, in compliance with s. 943.1395. In addition, the member's primary duties and responsibilities must be the supervised custody, surveillance, control, investigation, apprehension, arrest, and counseling of assigned juveniles within the community;

(h) Effective October 1, 2005, through June 30, 2008, the member must be employed by a law enforcement agency or medical examiner's office in a forensic discipline recognized by the International Association for Identification and must qualify for active membership in the International Association for Identification. The member's primary duties and responsibilities must include the collection, examination, preservation, documentation, preparation, or analysis of physical evidence or testimony, or both, or the member must be the direct supervisor, quality management supervisor, or command officer of one or more individuals with such responsibility. Administrative support personnel, including, but not limited to, those whose primary responsibilities are clerical or in accounting, purchasing, legal, and personnel, shall not be included;

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

1. Forensic technologist (class code 8459);
2. Crime laboratory technician (class code 8461);

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- 981 3. Crime laboratory analyst (class code 8463);
982 4. Senior crime laboratory analyst (class code 8464);
983 5. Crime laboratory analyst supervisor (class code 8466);
984 6. Forensic chief (class code 9602); or
985 7. Forensic services quality manager (class code 9603);

986 (j) Effective July 1, 2008, the member must be employed by
987 a local government law enforcement agency or medical examiner's
988 office and must spend at least 65 percent of his or her time
989 performing duties that involve the collection, examination,
990 preservation, documentation, preparation, or analysis of human
991 tissues or fluids or physical evidence having potential
992 biological, chemical, or radiological hazard or contamination,
993 or use chemicals, processes, or materials that may have
994 carcinogenic or health-damaging properties in the analysis of
995 such evidence, or the member must be the direct supervisor of
996 one or more individuals having such responsibility. If a special
997 risk member changes to another position within the same agency,
998 he or she must submit a complete application as provided in
999 paragraph (4)~~(3)~~(a); or

1000 (k) The member must have already qualified for and be
1001 actively participating in special risk membership under
1002 paragraph (a), paragraph (b), or paragraph (c), must have
1003 suffered a qualifying injury as defined in this paragraph, must
1004 not be receiving disability retirement benefits as provided in
1005 s. 121.091(4), and must satisfy the requirements of this
1006 paragraph.

1007 1. The ability to qualify for the class of membership
1008 defined in paragraph (2) (f) ~~s. 121.021(15)(f)~~ shall occur when

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two licensed medical physicians, one of whom is a primary treating physician of the member, certify the existence of the physical injury and medical condition that constitute a qualifying injury as defined in this paragraph and that the member has reached maximum medical improvement after August 1, 2008. The certifications from the licensed medical physicians must include, at a minimum, that the injury to the special risk member has resulted in a physical loss, or loss of use, of at least two of the following: left arm, right arm, left leg, or right leg; and:

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

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

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

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

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

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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 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.—

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1065 (a)1. Any Regular Class member of the Florida Retirement
1066 System employed by a county, city, or special district who feels
1067 that his or her position ~~he or she~~ meets the criteria set forth
1068 in this section for membership in the Special Risk Class may
1069 request that his or her employer submit an application to the
1070 department requesting that the department designate him or her
1071 as a Special Risk Class member. Such Regular Class member shall
1072 complete the appropriate portions of an Application for Special
1073 Risk Membership provided in Form FRS-400 or Form FRS-405. If the
1074 employer agrees that the member meets the requirements for
1075 Special Risk Class membership, the employer shall certify and
1076 submit an application as set forth in this section and submit a
1077 copy of the current official job description of the member's
1078 duties showing the percentage of time spent performing each duty
1079 and a copy of a personnel action form showing the effective date
1080 of membership in that position to the department on ~~in~~ behalf of
1081 the employee ~~containing a certification that the member meets~~
1082 ~~the criteria for special risk membership set forth in this~~
1083 ~~section and such other supporting documentation as may be~~
1084 ~~required by administrative rule. The department shall, within 90~~
1085 ~~days, either designate or refuse to designate the member as a~~
1086 ~~special risk member.~~

1087 2. Upon receipt of the completed application, proof of
1088 certification, and supporting documentation, the department
1089 shall determine if the member meets the requirements for Special
1090 Risk Class membership. If the requirements are met, the
1091 department shall approve the member for Special Risk Class
1092 membership. The employer shall certify to the department any

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1093 changes to the duties and responsibilities of a Special Risk
1094 Class member. The department shall review the documentation for
1095 changes to duties and responsibilities and either continue the
1096 approval of Special Risk Class membership or reclassify the
1097 member to Regular Class membership.

1098 3. If the employer refuses to certify the member's
1099 application for Special Risk Class membership, the employer
1100 shall notify the member of the employer's refusal to certify and
1101 the reasons for the refusal. If the employer declines to submit
1102 the member's application to the department, ~~or if~~ the department
1103 does not designate the member to the ~~as a~~ Special Risk Class, or
1104 the department removes the member from the Special Risk Class
1105 member, the member or the employer may appeal to the State
1106 Retirement Commission, as provided in s. 121.23, for designation
1107 as a Special Risk Class member. A member who receives a final
1108 affirmative ruling pursuant to such appeal for Special Risk
1109 Class membership shall have Special Risk Class membership
1110 retroactive to the date such member would have had Special Risk
1111 Class membership had such membership been approved by the
1112 employer and the department, as determined by the department,
1113 and the employer contributions shall be paid in full within 1
1114 year after such final ruling.

1115 (b)1. Applying the criteria set forth in this section, the
1116 Department of Management Services shall specify which current
1117 and newly created classes of positions under the uniform
1118 classification plan established pursuant to chapter 110 entitle
1119 the incumbents of positions in those classes to membership in
1120 the Special Risk Class. Only employees employed in the classes

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so specified shall be special risk members.

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

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

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

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

(c) Any member who is a Special Risk Class member and who fails to meet the criteria for the Special Risk Class shall have his or her special risk class designation removed and thereafter

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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 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

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1177 contributions paid and the special risk percentage rate of gross
1178 salary in effect at the time of purchase for the period being
1179 claimed, plus interest thereon at the rate of 4 percent a year
1180 compounded annually from the date of such service until July 1,
1181 1975, and 6.5 percent a year thereafter until the date of
1182 payment. This past service may be purchased by the member or by
1183 the employer on behalf of the member.

1184 (7)~~(6)~~ CREDIT FOR PRIOR SERVICE.—A special risk member who
1185 has creditable service with an employer under chapter 122 or
1186 chapter 321, or was employed as a correctional counselor with
1187 the Department of Corrections between December 1, 1970, and
1188 September 30, 1979, in a position which satisfies the criteria
1189 provided for in subsection (3) ~~(2)~~ for special risk membership
1190 except the requirement for a certificate or waiver of
1191 certificate, shall have those years of service counted towards
1192 the attainment of the normal retirement date as a special risk
1193 member under this chapter. The percentage value of each such
1194 year of creditable service under chapter 122, chapter 321, or as
1195 a correctional counselor shall not change as a result of the
1196 application of this subsection. A special risk member who has
1197 taken a refund of contributions for such creditable service
1198 under chapter 122 or chapter 321 and has reclaimed it as prior
1199 service credit under this chapter shall be permitted to have
1200 such creditable service counted towards the attainment of the
1201 normal retirement date for the Special Risk Class of membership
1202 under this chapter.

1203 (8)~~(7)~~ SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS RETENTION
1204 ~~OF SPECIAL RISK NORMAL RETIREMENT DATE.—~~

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

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

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1233 (c) The department shall adopt such rules as are required
1234 to administer this subsection.

1235 (d) Notwithstanding any provision of this subsection to
1236 the contrary, this subsection does not apply to any special risk
1237 member who qualifies for continued membership pursuant to the
1238 provisions of paragraph (3)~~(2)~~(k).

1239 (9)~~(8)~~ RESTORATION OF SPECIAL RISK CREDIT FOR SPECIFIED
1240 PERIOD OF EMPLOYMENT.—A special risk member who was removed from
1241 the Special Risk Class effective October 1978, for the sole
1242 reason that he or she did not possess the required certificate
1243 or temporary waiver of certificate, and who obtained
1244 certification and was approved for special risk membership on or
1245 before June 30, 1982, shall be permitted to have special risk
1246 credit restored for that period upon:

1247 (a) Certification by his or her employer that all
1248 requirements for special risk membership except the requirement
1249 for certification or temporary waiver of certification were met;
1250 and

1251 (b) Payment of contributions equal to the difference in
1252 the contributions that were paid during the period and the
1253 contributions required for special risk members during that
1254 period, plus 6.5 percent interest thereon, compounded each June
1255 30 from date of service until date of payment.

1256
1257 This credit may be purchased by the member or by the employer on
1258 behalf of the member.

1259 (10)~~(9)~~ CREDIT FOR UPGRADED SERVICE.—

1260 (a) Any member of the Special Risk Class who has earned

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1261 creditable service through September 30, 1999, in another
1262 membership class of the Florida Retirement System as an
1263 emergency medical technician or paramedic, which service is
1264 within the purview of the Special Risk Class, may purchase
1265 additional retirement credit to upgrade such service to Special
1266 Risk Class service, to the extent of the percentages of the
1267 member's average final compensation provided in s.
1268 121.091(1)(a)2. Contributions for upgrading such service to
1269 Special Risk Class credit under this subsection shall be equal
1270 to the difference in the contributions paid and the Special Risk
1271 Class contribution rate as a percentage of gross salary in
1272 effect for the period being claimed, plus interest thereon at
1273 the rate of 6.5 percent a year, compounded annually until the
1274 date of payment. This service credit may be purchased by the
1275 employer on behalf of the member.

1276 (b) Any member of the Special Risk Class who has earned
1277 creditable service through September 30, 2001, in another
1278 membership class of the Florida Retirement System whose
1279 responsibilities included fire prevention or firefighter
1280 training, which service is within the purview of the Special
1281 Risk Class, may purchase additional retirement credit to upgrade
1282 such service to Special Risk Class service, to the extent of the
1283 percentages of the member's average final compensation provided
1284 in s. 121.091(1)(a)2. Contributions for upgrading such service
1285 to Special Risk Class credit under this subsection shall be
1286 equal to the difference in the contributions paid and the
1287 Special Risk Class contribution rate as a percentage of gross
1288 salary in effect for the period being claimed, plus interest

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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.

(c) Any member of the Special Risk Class who has earned creditable service through June 30, 2005, in another membership class of the Florida Retirement System in a position with the Department of Law Enforcement or the Division of State Fire Marshal and became covered by the Special Risk Class as described in paragraph (3)~~(2)~~(i), or with a local government law enforcement agency or medical examiner's office and became covered by the Special Risk Class as described in paragraph (3)~~(2)~~(j), which service is within the purview of the Special Risk Class, and is employed in such position on or after July 1, 2008, 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. The cost for such credit shall be an amount representing the actuarial accrued liability for the difference in accrual value during the affected period of service. The cost shall be calculated using the discount rate and other relevant actuarial assumptions that were used to value the Florida Retirement System Pension ~~defined benefit~~ Plan liabilities in the most recent actuarial valuation. The division shall ensure that the transfer sum is prepared using a formula and methodology certified by an enrolled actuary. The cost must be paid immediately upon notification by the division. The local government employer may purchase the upgraded service credit on behalf of the member if the member has been employed by that

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1317 employer for at least 3 years.

1318 Section 7. Paragraphs (a) and (d) of subsection (4),
1319 paragraph (b) of subsection (7), and subsection (10) of section
1320 121.052, Florida Statutes, are amended, present paragraph (c) of
1321 subsection (7) of that section is redesignated as paragraph (d),
1322 and a new paragraph (c) is added to that subsection, to read:

1323 121.052 Membership class of elected officers.—

1324 (4) PARTICIPATION BY ELECTED OFFICERS SERVING A SHORTENED
1325 TERM DUE TO APPORTIONMENT, FEDERAL INTERVENTION, ETC.—

1326 (a) Any duly elected officer whose term of office was
1327 shortened by legislative or judicial apportionment pursuant to
1328 the provisions of s. 16, Art. III of the State Constitution may,
1329 after the term of office to which he or she was elected is
1330 completed, pay into the System Trust Fund the amount of
1331 contributions that would have been made by the officer or the
1332 officer's employer on his or her behalf, plus 4 percent interest
1333 compounded annually from the date he or she left office until
1334 July 1, 1975, and 6.5 percent interest compounded annually
1335 thereafter, and may receive service credit for the length of
1336 time the officer would have served if such term had not been
1337 shortened by apportionment.

1338 (d)1. Any justice or judge, or any retired justice or
1339 judge who retired before July 1, 1993, who has attained the age
1340 of 70 years and who is prevented under s. 8, Art. V of the State
1341 Constitution from completing his or her term of office because
1342 of age may elect to purchase credit for all or a portion of the
1343 months he or she would have served during the remainder of the
1344 term of office, but he or she may claim those months only after

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1345 the date the service would have occurred. The justice or judge
1346 must pay into the System Trust Fund the amount of contributions
1347 that would have been made by the employer on his or her behalf
1348 for the period of time being claimed, plus 6.5 percent interest
1349 thereon compounded each June 30 from the date he or she left
1350 office, in order to receive service credit in this class for the
1351 period of time being claimed. After the date the service would
1352 have occurred, and upon payment of the required contributions,
1353 the retirement benefit of a retired justice or judge shall ~~will~~
1354 be adjusted prospectively to include the ~~this~~ additional
1355 creditable service; however, such adjustment may be made only
1356 once.

1357 2. Any justice or judge who does not seek election to a
1358 subsequent term of office because he or she would be prevented
1359 under s. 8, Art. V of the State Constitution from completing
1360 such term of office upon attaining the age of 70 years may elect
1361 to purchase service credit for service as a temporary judge as
1362 assigned by the court if the temporary assignment follows
1363 immediately the last full term of office served and the purchase
1364 is limited to the number of months of service needed to vest
1365 retirement benefits. To receive retirement credit for such
1366 temporary service beyond termination, the justice or judge must
1367 pay into the System Trust Fund the amount of contributions that
1368 would have been made by the justice or judge and the employer on
1369 his or her behalf had he or she continued in office for the
1370 period of time being claimed, plus 6.5 percent interest thereon
1371 compounded each June 30 from the date he or she left office.

1372 (7) CONTRIBUTIONS.—

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1373 (b) The employer paying the salary of a member of the
1374 Elected Officers' Class shall contribute an amount as specified
1375 in this subsection or s. 121.71, as appropriate, which shall
1376 constitute the ~~entire~~ employer retirement contribution with
1377 respect to such member. The employer shall also withhold one-
1378 half of the entire contribution of the member required for
1379 social security coverage. Effective July 1, 2011, each member of
1380 the Elected Officers' Class shall pay employee contributions as
1381 specified in s. 121.71.

1382 (c) If a member of the Elected Officers' Class ceases to
1383 fill an office covered by this class for 3 calendar months for
1384 any reason other than retirement and has not been employed in
1385 any capacity with any participating employer for 3 calendar
1386 months, the member may receive a refund of all contributions he
1387 or she has made to the pension plan, subject to the restrictions
1388 otherwise provided in this chapter. Partial refunds are not
1389 permitted. The refund shall not include any interest earnings on
1390 the contributions for a member of the pension plan. Employer
1391 contributions made on behalf of the member are not refundable. A
1392 member may not receive a refund of employee contributions if a
1393 pending or an approved qualified domestic relations order is
1394 filed against the member's retirement account. By obtaining a
1395 refund of contributions, a member waives all rights under the
1396 Florida Retirement System and the health insurance subsidy
1397 provided under s. 112.363 to the service credit represented by
1398 the refunded contributions, except the right to purchase his or
1399 her prior service credit in accordance with s. 121.081(2).

1400 (10) ACCRUED SERVICE VALUE.—A member of the Elected

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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.

Section 8. 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 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

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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 9. Paragraphs (b) and (j) of subsection (1), paragraph (b) of subsection (3), 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.

(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.

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1457 b. Up to 10 nonelective full-time positions may be
1458 designated for each local agency employer reporting to the
1459 department ~~of Management Services~~; for local agencies with 100
1460 or more regularly established positions, additional nonelective
1461 full-time positions may be designated, not to exceed 1 percent
1462 of the regularly established positions within the agency.

1463 c. Each position added to the class must be a managerial
1464 or policymaking position filled by an employee who is not
1465 subject to continuing contract and serves at the pleasure of the
1466 local agency employer without civil service protection, and who:

1467 (I) Heads an organizational unit; or

1468 (II) Has responsibility to effect or recommend personnel,
1469 budget, expenditure, or policy decisions in his or her areas of
1470 responsibility.

1471 2. In lieu of participation in the Senior Management
1472 Service Class, members of the Senior Management Service Class,
1473 pursuant to the provisions of subparagraph 1., may withdraw from
1474 the Florida Retirement System altogether. The decision to
1475 withdraw from the Florida Retirement System is ~~shall be~~
1476 irrevocable ~~for~~ as long as the employee holds the ~~such a~~
1477 position. Any service creditable under the Senior Management
1478 Service Class shall be retained after the member withdraws from
1479 the Florida Retirement System; however, additional service
1480 credit in the Senior Management Service Class may ~~shall~~ not be
1481 earned after such withdrawal. Such members are ~~shall not be~~
1482 eligible to participate in the Senior Management Service
1483 Optional Annuity Program.

1484 3. Effective January 1, 2006, through June 30, 2006, an

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employee who has withdrawn from the Florida Retirement System under subparagraph 2. has one opportunity to elect to participate in either the pension plan ~~defined benefit program~~ or the investment plan ~~Public Employee Optional Retirement Program of the Florida Retirement System~~.

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

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

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methodology certified by an actuary.

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

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

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1541 with respect to such member. The employer shall also withhold
1542 one-half of the entire contribution of the member required for
1543 social security coverage. Effective July 1, 2011, each member
1544 shall pay employee contributions as specified in s. 121.71.

1545 (c) Upon termination of employment from all participating
1546 employers for 3 calendar months for any reason other than
1547 retirement pursuant to s. 121.021(39)(c), a member may receive a
1548 refund of all contributions he or she has made to the pension
1549 plan, subject to the restrictions otherwise provided in this
1550 chapter. Partial refunds are not permitted. The refund shall not
1551 include any interest earnings on the contributions for a member
1552 of the pension plan. Employer contributions made on behalf of
1553 the member are not refundable. A member may not receive a refund
1554 of employee contributions if a pending or an approved qualified
1555 domestic relations order is filed against the member's
1556 retirement account. By obtaining a refund of contributions, a
1557 member waives all rights under the Florida Retirement System and
1558 the health insurance subsidy provided under s. 112.363 to the
1559 service credit represented by the refunded contributions, except
1560 the right to purchase his or her prior service credit in
1561 accordance with s. 121.081(2).

1562 (6)

1563 (d) Contributions.—

1564 1. Through June 30, 2001, each employer shall contribute
1565 on behalf of each participant in the Senior Management Service
1566 Optional Annuity Program an amount equal to the normal cost
1567 portion of the employer retirement contribution which would be
1568 required if the participant were a Senior Management Service

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1569 Class member of the Florida Retirement System pension plan
1570 ~~defined benefit program~~, plus the portion of the contribution
1571 rate required in s. 112.363(8) that would otherwise be assigned
1572 to the Retiree Health Insurance Subsidy Trust Fund. Effective
1573 July 1, 2001, each employer shall contribute on behalf of each
1574 participant in the optional program an amount equal to 12.49
1575 percent of the participant's gross monthly compensation. The
1576 department shall deduct an amount approved by the Legislature to
1577 provide for the administration of this program. The payment of
1578 the contributions to the optional program which is required by
1579 this subparagraph for each participant shall be made by the
1580 employer to the department, which shall forward the
1581 contributions to the designated company or companies contracting
1582 for payment of benefits for the participant under the program.

1583 2. Each employer shall contribute on behalf of each
1584 participant in the Senior Management Service Optional Annuity
1585 Program an amount equal to the unfunded actuarial accrued
1586 liability portion of the employer contribution which would be
1587 required for members of the Senior Management Service Class in
1588 the Florida Retirement System. This contribution shall be paid
1589 to the department for transfer to the Florida Retirement System
1590 Trust Fund.

1591 3. An Optional Annuity Program Trust Fund shall be
1592 established in the State Treasury and administered by the
1593 department to make payments to provider companies on behalf of
1594 the optional annuity program participants, and to transfer the
1595 unfunded liability portion of the state optional annuity program
1596 contributions to the Florida Retirement System Trust Fund.

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1597 4. Contributions required for social security by each
1598 employer and each participant, in the amount required for social
1599 security coverage as now or hereafter may be provided by the
1600 federal Social Security Act shall be maintained for each
1601 participant in the Senior Management Service retirement program
1602 and shall be in addition to the retirement contributions
1603 specified in this paragraph.

1604 5. Each participant in the Senior Management Service
1605 Optional Annuity Program may contribute by way of salary
1606 reduction or deduction a percentage amount of the participant's
1607 gross compensation not to exceed the percentage amount
1608 contributed by the employer to the optional annuity program.
1609 Payment of the participant's contributions shall be made by the
1610 employer to the department, which shall forward the
1611 contributions to the designated company or companies contracting
1612 for payment of benefits for the participant under the program.

1613 (e) Benefits.—

1614 1. Benefits under the Senior Management Service Optional
1615 Annuity Program are payable only to participants in the program,
1616 or their beneficiaries as designated by the participant in the
1617 contract with the provider company, and must be paid by the
1618 designated company in accordance with the terms of the annuity
1619 contract applicable to the participant. A participant must be
1620 terminated from all employment relationships with Florida
1621 Retirement System employers as provided in s. 121.021(39) to
1622 begin receiving the employee-funded and employer-funded benefit.
1623 Benefits funded by employee and employer contributions are
1624 payable under the terms of the contract to the participant, his

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or her beneficiary, or his or her estate, in addition to:

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

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

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

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

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

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1653 Management Service Optional Annuity Program, and any
1654 contribution accumulated under such program, are not subject to
1655 assignment, execution, or attachment or to any legal process
1656 whatsoever.

1657 ~~4.3.~~ Except as provided in subparagraph ~~5. 4.~~, a
1658 participant who terminates employment and receives a
1659 distribution, including a rollover or trustee-to-trustee
1660 transfer, funded by employer contributions shall be deemed to be
1661 retired from a state-administered retirement system if the
1662 participant is subsequently employed with an employer that
1663 participates in the Florida Retirement System.

1664 ~~5.4.~~ A participant who receives optional annuity program
1665 benefits funded by employee and employer contributions as a
1666 mandatory distribution of a de minimis account authorized by the
1667 department is not considered a retiree.

1668
1669 As used in this paragraph, a "de minimis account" means an
1670 account with a provider company containing employee and employer
1671 contributions and accumulated earnings of not more than \$5,000
1672 made under this chapter.

1673 Section 10. Subsections (2) and (5) and paragraph (c) of
1674 subsection (6) of section 121.071, Florida Statutes, are
1675 amended, present paragraph (d) of subsection (6) is redesignated
1676 as paragraph (e), and a new paragraph (d) is added to that
1677 subsection, to read:

1678 121.071 Contributions.—Contributions to the system shall
1679 be made as follows:

1680 (2)(a) Effective January 1, 1975, or October 1, 1975, as

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1681 applicable, and through June 30, 2011, each employer shall
1682 accomplish the contribution required by subsection (1) by a
1683 procedure in which no employee's gross salary shall be reduced.
1684 Effective July 1, 2011, each employee and employer shall pay
1685 retirement contributions as specified in s. 121.71.

1686 (b) Upon termination of employment from all participating
1687 employers for 3 calendar months for any reason other than
1688 retirement pursuant to s. 121.021(39)(c), a member may receive
1689 ~~shall be entitled to a full~~ refund of all ~~the~~ contributions he
1690 or she has made to the pension prior or subsequent to
1691 ~~participation in the noncontributory~~ plan, subject to the
1692 restrictions otherwise provided in this chapter. Partial refunds
1693 are not permitted. The refund shall not include any interest
1694 earnings on the contributions for a member of the pension plan.
1695 Employer contributions made on behalf of the member are not
1696 refundable. A member may not receive a refund of employee
1697 contributions if a pending or an approved qualified domestic
1698 relations order is filed against his or her retirement account.
1699 By obtaining a refund of contributions, a member waives all
1700 rights under the Florida Retirement System and the health
1701 insurance subsidy to the service credit represented by the
1702 refunded contributions, except the right to purchase his or her
1703 prior service credit in accordance with s. 121.081(2).

1704 (5) Contributions made in accordance with subsections (1),
1705 (2), (3), and (4), and s. 121.71 shall be paid ~~by the employer~~
1706 into the system trust funds in accordance with rules adopted by
1707 the administrator pursuant to chapter 120, except as may be
1708 otherwise specified herein. Effective July 1, 2002,

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contributions paid under subsections (1) and (4) and accompanying payroll data are due and payable no later than the 5th working day of the month immediately following the month during which the payroll period ended.

(6)

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

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

Section 11. Paragraphs (b) and (c) of subsection (1) and subsection (2) of section 121.081, Florida Statutes, are amended to read:

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

(1)

(b) Past service earned after January 1, 1975, may be claimed by officers or employees of a municipality, metropolitan

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1737 planning organization, charter school, charter technical career
1738 center, or special district who become a covered group under
1739 this system. The governing body of a covered group may elect to
1740 provide benefits for past service earned after January 1, 1975,
1741 in accordance with this chapter, and the cost for such past
1742 service is established by applying the following formula: The
1743 employer shall contribute an amount equal to the employer
1744 contribution rate in effect at the time the service was earned
1745 and, if applicable, the employee contribution rate, multiplied
1746 by the employee's gross salary for each year of past service
1747 claimed, plus 6.5-percent interest thereon, compounded annually,
1748 figured on each year of past service, with interest compounded
1749 from date of annual salary earned until date of payment.

1750 (c) If an employer joins the Florida Retirement System
1751 prior to July 1, 2011, and does ~~Should the employer~~ not elect to
1752 provide past service for the member at the time of joining, ~~then~~
1753 the member may claim and pay for the service as provided in
1754 ~~same, based on~~ paragraphs (a) and (b).

1755 (2) Prior service, as defined in s. 121.021(19), may be
1756 claimed as creditable service under the Florida Retirement
1757 System after a member has been reemployed for 1 complete year of
1758 creditable service ~~within a period of 12 consecutive months~~,
1759 except as provided in paragraph (c). Service performed as a
1760 participant of the optional retirement program for the State
1761 University System under s. 121.35 or the Senior Management
1762 Service Optional Annuity Program under s. 121.055 may be used to
1763 satisfy the reemployment requirement of 1 complete year of
1764 creditable service. The member shall not be permitted to make

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any contributions for prior service until after completion of the 1 year of creditable service. If a member does not wish to 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

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retirement under this chapter or chapter 238.

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

(c) For prior service as defined in s. 121.021(19) (b) and (c) during which no contributions were made because the member did not participate in a retirement system, the member shall contribute 14.38 percent of all salary received during such period or 14.38 percent of \$100 per month during such period, whichever is greater, plus 4-percent interest compounded annually from the first year of service claimed 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.

(d) In order to claim credit for prior service as defined in s. 121.021(19) (d) for which no retirement contributions were paid during the period of such service, the member shall contribute the total employee and employer contributions which were required to be made to the Highway Patrol Pension Trust

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1821 Fund, as provided in chapter 321, during the period claimed,
1822 plus 4-percent interest compounded annually from the first year
1823 of service until July 1, 1975, and 6.5-percent interest
1824 compounded annually thereafter, until full payment is made to
1825 the Retirement Trust Fund. However, any governmental entity that
1826 ~~which~~ employed such member may elect to pay up to 50 percent of
1827 the contributions and interest required to purchase the ~~this~~
1828 prior service credit. The service shall be credited in
1829 accordance with the provisions of the Highway Patrol Pension
1830 Plan in effect during the period claimed unless the member
1831 terminated and withdrew his or her retirement contributions and
1832 was thereafter enrolled in the State and County Officers and
1833 Employees' Retirement System or the Florida Retirement System,
1834 in which case the service shall be credited as Regular Class
1835 service.

1836 (e) For service performed under the Florida Retirement
1837 System after December 1, 1970, that was never reported to the
1838 division or the department due to error, retirement credit may
1839 be claimed by a member of the Florida Retirement System. The
1840 department shall adopt rules establishing criteria for claiming
1841 such credit and detailing the documentation required to
1842 substantiate the error.

1843 (f) For prior service performed on or after July 1, 2011,
1844 for which the member had credit under the Florida Retirement
1845 System and received a refund of contributions upon termination
1846 of employment for 3 calendar months, the member shall contribute
1847 at the rate that was required of him or her during the period of
1848 service being claimed, plus 6.5 percent interest, compounded

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1849 annually on each June 30 from date of refund until the full
1850 payment is made to the Florida Retirement System Trust Fund, and
1851 shall receive credit in the membership class in which the member
1852 participated during the period claimed.

1853 (g)~~(f)~~ The employer may not ~~be required to~~ make
1854 contributions for prior service credit for any member, except
1855 that the employer shall pay the employer portion of
1856 contributions for any legislator who elects to withdraw from the
1857 Florida Retirement System and later rejoins the system and pays
1858 any employee contributions required in accordance with s.
1859 121.052(3)(d).

1860 Section 12. Subsection (1), paragraph (a) of subsection
1861 (3), paragraphs (a) and (c) of subsection (5), paragraph (d) of
1862 subsection (9), and paragraph (a) of subsection (13) of section
1863 121.091, Florida Statutes, are amended, and paragraph (1) is
1864 added to subsection (13) of that section, to read:

1865 121.091 Benefits payable under the system.—Benefits may
1866 not be paid under this section unless the member has terminated
1867 employment as provided in s. 121.021(39)(a) or begun
1868 participation in the Deferred Retirement Option Program as
1869 provided in subsection (13), and a proper application has been
1870 filed in the manner prescribed by the department. The department
1871 may cancel an application for retirement benefits when the
1872 member or beneficiary fails to timely provide the information
1873 and documents required by this chapter and the department's
1874 rules. The department shall adopt rules establishing procedures
1875 for application for retirement benefits and for the cancellation
1876 of such application when the required information or documents

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are not received.

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

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

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

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

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1905 for all creditable years after September 30, 1978, and before
 1906 January 1, 1989.+

1907 d. Two and two-tenths percent of the member's final
 1908 monthly compensation for all creditable years after December 31,
 1909 1988, and before January 1, 1990.+

1910 e. Two and four-tenths percent of the member's average
 1911 final compensation for all creditable years after December 31,
 1912 1989, and before January 1, 1991.+

1913 f. Two and six-tenths percent of the member's average
 1914 final compensation for all creditable years after December 31,
 1915 1990, and before January 1, 1992.+

1916 g. Two and eight-tenths percent of the member's average
 1917 final compensation for all creditable years after December 31,
 1918 1991, and before January 1, 1993.+

1919 h. Three percent of the member's average final
 1920 compensation for all creditable years after December 31, 1992.+
 1921 and

1922 i. Three percent of the member's average final
 1923 compensation for all creditable years of service after September
 1924 30, 1978, and before January 1, 1993, for any special risk
 1925 member who retires after July 1, 2000, or any member of the
 1926 Special Risk Administrative Support Class entitled to retain the
 1927 special risk normal retirement date who was a member of the
 1928 Special Risk Class during the time period and who retires after
 1929 July 1, 2000.

1930 3. For creditable years of Senior Management Service Class
 1931 service after January 31, 1987, A is 2 percent.+

1932 4. For creditable years of Elected Officers' Class service

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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 in such class, A is 3 percent of 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 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

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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 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 65 for a member of the Regular Class, Senior Management Service Class, or the Elected Officers' Class, and age 60 for a member of the Special Risk Class, or age 57 if a Special Risk member has completed 30 years of creditable

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service in accordance with s. 121.021(29)(b)2.c.

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

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

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

(9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

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

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2045 1. A retiree ~~The retirees~~ may not be reemployed with an
2046 employer participating in the Florida Retirement System until
2047 such person has been retired for 6 calendar months.

2048 2. A retiree employed in violation of this subsection and
2049 an employer that employs or appoints such person are jointly and
2050 severally liable for reimbursement of any benefits paid to the
2051 retirement trust fund from which the benefits were paid,
2052 including the Florida Retirement System Trust Fund and the
2053 Florida Retirement System Investment Plan ~~Public Employee~~
2054 ~~Optional Retirement Program~~ Trust Fund, as appropriate. The
2055 employer must have a written statement from the retiree that he
2056 or she is not retired from a state-administered retirement
2057 system.

2058 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and
2059 subject to this section, the Deferred Retirement Option Program,
2060 hereinafter referred to as DROP, is a program under which an
2061 eligible member of the Florida Retirement System may elect to
2062 participate, deferring receipt of retirement benefits while
2063 continuing employment with his or her Florida Retirement System
2064 employer. The deferred monthly benefits shall accrue in the
2065 Florida Retirement System on behalf of the participant, plus
2066 interest compounded monthly, for the specified period of the
2067 DROP participation, as provided in paragraph (c). Upon
2068 termination of employment, the participant shall receive the
2069 total DROP benefits and begin to receive the previously
2070 determined normal retirement benefits. Participation in the DROP
2071 does not guarantee employment for the specified period of DROP.
2072 Participation in DROP by an eligible member beyond the initial

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

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

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

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

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2101 within the 12-month limitation period forfeits all rights to
2102 participate in DROP. The member shall advise his or her employer
2103 and the division in writing of the date DROP begins. The
2104 beginning date may be subsequent to the 12-month election period
2105 but must be within the original 60-month participation period
2106 provided in subparagraph (b)1. When establishing eligibility of
2107 the member to participate in DROP, the member may elect to
2108 include or exclude any optional service credit purchased by the
2109 member from the total service used to establish the normal
2110 retirement date. A member who has dual normal retirement dates
2111 is eligible to elect to participate in DROP after attaining
2112 normal retirement date in either class.

2113 3. The employer of a member electing to participate in
2114 DROP, or employers if dually employed, shall acknowledge in
2115 writing to the division the date the member's participation in
2116 DROP begins and the date the member's employment and DROP
2117 participation will terminate.

2118 4. Simultaneous employment of a participant by additional
2119 Florida Retirement System employers subsequent to the
2120 commencement of participation in DROP is permissible if such
2121 employers acknowledge in writing a DROP termination date no
2122 later than the participant's existing termination date or the
2123 maximum participation period provided in subparagraph (b)1.

2124 5. A DROP participant may change employers while
2125 participating in DROP, subject to the following:

2126 a. A change of employment must take place without a break
2127 in service so that the member receives salary for each month of
2128 continuous DROP participation. If a member receives no salary

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2129 during a month, DROP participation shall cease unless the
2130 employer verifies a continuation of the employment relationship
2131 for such participant pursuant to s. 121.021(39)(b).

2132 b. Such participant and new employer shall notify the
2133 division of the identity of the new employer on forms required
2134 by the division.

2135 c. The new employer shall acknowledge, in writing, the
2136 participant's DROP termination date, which may be extended but
2137 not beyond the maximum participation period provided in
2138 subparagraph (b)1., shall acknowledge liability for any
2139 additional retirement contributions and interest required if the
2140 participant fails to timely terminate employment, and is subject
2141 to the adjustment required in sub-subparagraph (c)5.d.

2142 6. Effective July 1, 2001, for instructional personnel as
2143 defined in s. 1012.01(2), election to participate in DROP may be
2144 made at any time following the date on which the member first
2145 reaches normal retirement date. The member shall advise his or
2146 her employer and the division in writing of the date on which
2147 DROP begins. When establishing eligibility of the member to
2148 participate in DROP for the 60-month participation period
2149 provided in subparagraph (b)1., the member may elect to include
2150 or exclude any optional service credit purchased by the member
2151 from the total service used to establish the normal retirement
2152 date. A member who has dual normal retirement dates is eligible
2153 to elect to participate in either class.

2154 7. The effective date of DROP participation of a DROP
2155 participant is prior to July 1, 2011.

2156 (1) Closure of program to new participants.-Effective July

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

Section 13. 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
whose leave of absence terminates between school years is
eligible to receive credit for the leave of absence if ~~as long~~
~~as~~ he or she returns to the employment of his or her employer at
the beginning of the next school year and remains on the
employer's payroll for 1 calendar month; and

(d) The member makes the required contributions for
service credit during the leave of absence, which shall be 8

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percent until January 1, 1975, and 9 percent thereafter of his or her rate of monthly compensation in effect immediately prior to the commencement of such leave for each month of such period, plus 4 percent interest until July 1, 1975, and 6.5 percent interest thereafter on such contributions, compounded annually each June 30 from the due date of the contribution to date of payment. Effective July 1, 1980, any leave of absence purchased pursuant to this section shall be at the contribution rates specified in s. 121.071 or s. 121.71 in effect at the time the leave is granted for the class of membership from which the leave of absence was granted; however, any member who purchased leave-of-absence credit prior to July 1, 1980, for a leave of absence from a position in a class other than the regular membership class, may pay the appropriate additional contributions plus compound interest thereon and receive creditable service for such leave of absence in the membership class from which the member was granted the leave of absence.

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

Section 14. Section 121.125, Florida Statutes, is amended to read:

121.125 Credit for workers' compensation payment periods.—
A member of the retirement system created by this chapter who has been eligible or becomes eligible to receive workers'

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2213 compensation payments for an injury or illness occurring during
2214 his or her employment while a member of any state retirement
2215 system shall, upon return to active employment with a covered
2216 employer for 1 calendar month or upon approval for disability
2217 retirement in accordance with s. 121.091(4), receive full
2218 retirement credit for the period prior to such return to active
2219 employment or disability retirement for which the workers'
2220 compensation payments were received. However, a ~~no~~ member may
2221 not receive retirement credit for any such period occurring
2222 after the earlier of the date of maximum medical improvement as
2223 defined in s. 440.02 or the date termination has occurred as
2224 defined in s. 121.021(39). The employer of record at the time of
2225 the worker's compensation injury or illness shall make the
2226 required employee and employer retirement contributions based on
2227 the member's rate of monthly compensation immediately prior to
2228 his or her receiving workers' compensation payments for
2229 retirement credit received by the member. The employer of record
2230 at the time of the workers' compensation injury or illness shall
2231 be assessed by the division a penalty of 1 percent of the
2232 contributions on all contributions not paid on the first payroll
2233 report after the member becomes eligible to receive credit. This
2234 delinquent assessment may not be waived.

2235 Section 15. Section 121.161, Florida Statutes, is
2236 reenacted to read:

2237 121.161 References to other laws include amendments.—
2238 References in this chapter to state or federal laws or
2239 agreements are intended to include such laws as they now exist
2240 or may hereafter be amended.

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2241 Section 16. Paragraphs (g) and (i) of subsection (3),
2242 paragraph (a) of subsection (4), and subsection (5) of section
2243 121.35, Florida Statutes, are amended to read:

2244 121.35 Optional retirement program for the State
2245 University System.—

2246 (3) ELECTION OF OPTIONAL PROGRAM.—

2247 (g) An eligible employee who is a member of the Florida
2248 Retirement System at the time of election to participate in the
2249 optional retirement program shall retain all retirement service
2250 credit earned under the Florida Retirement System, at the rate
2251 earned. ~~No~~ Additional service credit in the Florida Retirement
2252 System may not ~~shall~~ be earned while the employee participates
2253 in the optional program, and ~~nor shall~~ the employee is not ~~be~~
2254 eligible for disability retirement under the Florida Retirement
2255 System. An eligible employee may transfer from the Florida
2256 Retirement System to his or her accounts under the State
2257 University System Optional Retirement Program a sum representing
2258 the present value of the employee's accumulated benefit
2259 obligation under ~~the defined benefit program of~~ the Florida
2260 Retirement System pension plan for any service credit accrued
2261 from the employee's first eligible transfer date to the optional
2262 retirement program through the actual date of such transfer, if
2263 such service credit was earned ~~in the period~~ from July 1, 1984,
2264 through December 31, 1992. The present value of the employee's
2265 accumulated benefit obligation shall be calculated as described
2266 in s. 121.4501(3) ~~(c) 2~~. Upon ~~such~~ transfer, all ~~such~~ service
2267 credit ~~previously~~ earned under the ~~defined benefit program of~~
2268 ~~the~~ Florida Retirement System pension plan during this period is

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2269 ~~shall be~~ nullified for purposes of entitlement to a future
2270 benefit under the ~~defined benefit program of the~~ Florida
2271 Retirement System pension plan.

2272 (i) Effective January 1, 2008, through December 31, 2008,
2273 except for an employee who is a mandatory participant of the
2274 State University System Optional Retirement Program, an employee
2275 who has elected to participate in the State University System
2276 Optional Retirement Program shall have one opportunity, at the
2277 employee's discretion, to choose to transfer from this program
2278 to the ~~defined benefit program of the~~ Florida Retirement System
2279 pension plan or to the investment plan ~~Public Employee Optional~~
2280 ~~Retirement Program~~, subject to the terms of the applicable
2281 contracts of the State University System Optional Retirement
2282 Program.

2283 1. If the employee chooses to move to the investment plan
2284 ~~Public Employee Optional Retirement Program~~, any contributions,
2285 interest, and earnings creditable to the employee under the
2286 State University System Optional Retirement Program must ~~shall~~
2287 be retained by the employee in the State University System
2288 Optional Retirement Program, and the applicable provisions of s.
2289 121.4501(4) shall govern the election.

2290 2. If the employee chooses to move to the pension plan
2291 ~~defined benefit program~~ of the Florida Retirement System, the
2292 employee shall receive service credit equal to his or her years
2293 of service under the State University System Optional Retirement
2294 Program.

2295 a. The cost for such credit must be in ~~shall be~~ an amount
2296 representing the actuarial accrued liability for the affected

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2297 period of service. The cost must ~~shall~~ be calculated using the
2298 discount rate and other relevant actuarial assumptions that were
2299 used to value the Florida Retirement System pension ~~defined~~
2300 ~~benefit~~ plan liabilities in the most recent actuarial valuation.
2301 The calculation must ~~shall~~ include any service already
2302 maintained under the pension ~~defined-benefit~~ plan in addition to
2303 the years under the State University System Optional Retirement
2304 Program. The actuarial accrued liability of any service already
2305 maintained under the pension ~~defined-benefit~~ plan must ~~shall~~ be
2306 applied as a credit to total cost resulting from the
2307 calculation. The division must ~~shall~~ ensure that the transfer
2308 sum is prepared using a formula and methodology certified by an
2309 enrolled actuary.

2310 b. The employee must transfer from his or her State
2311 University System Optional Retirement Program account, and from
2312 other employee moneys as necessary, a sum representing the
2313 actuarial accrued liability immediately following the time of
2314 such movement, determined assuming that attained service equals
2315 the sum of service in the pension plan ~~defined-benefit program~~
2316 and service in the State University System Optional Retirement
2317 Program.

2318 (4) CONTRIBUTIONS.—

2319 (a) Through June 30, 2001, each employer shall contribute
2320 on behalf of each participant in the optional retirement program
2321 an amount equal to the normal cost portion of the employer
2322 retirement contribution which would be required if the
2323 participant were a regular member of the Florida Retirement
2324 System pension plan ~~defined-benefit program~~, plus the portion of

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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 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

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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.

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

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2381 (c)~~(b)~~ Upon receipt by the provider company of a properly
2382 executed application for distribution of benefits, the total
2383 accumulated benefit shall be payable to the participant, as:

2384 1. A lump-sum distribution to the participant;

2385 2. A lump-sum direct rollover distribution whereby all
2386 accrued benefits, plus interest and investment earnings, are
2387 paid from the participant's account directly to an eligible
2388 retirement plan, as defined in s. 402(c)(8)(B) of the Internal
2389 Revenue Code, on behalf of the participant;

2390 3. Periodic distributions;

2391 4. A partial lump-sum payment whereby a portion of the
2392 accrued benefit is paid to the participant and the remaining
2393 amount is transferred to an eligible retirement plan, as defined
2394 in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of
2395 the participant; or

2396 5. Such other distribution options as are provided for in
2397 the participant's optional retirement program contract.

2398 (d)~~(e)~~ Survivor benefits shall be payable as:

2399 1. A lump-sum distribution payable to the beneficiaries or
2400 to the deceased participant's estate;

2401 2. An eligible rollover distribution on behalf of the
2402 surviving spouse of a deceased participant, whereby all accrued
2403 benefits, plus interest and investment earnings, are paid from
2404 the deceased participant's account directly to an eligible
2405 retirement plan, as described in s. 402(c)(8)(B) of the Internal
2406 Revenue Code, on behalf of the surviving spouse;

2407 3. Such other distribution options as are provided for in
2408 the participant's optional retirement program contract; or

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2409 4. A partial lump-sum payment whereby a portion of the
2410 accrued benefit is paid to the deceased participant's surviving
2411 spouse or other designated beneficiaries, less withholding taxes
2412 remitted to the Internal Revenue Service, if any, and the
2413 remaining amount is transferred directly to an eligible
2414 retirement plan, as described in s. 402(c)(8)(B) of the Internal
2415 Revenue Code, on behalf of the surviving spouse. The proportions
2416 must be specified by the participant or the surviving
2417 beneficiary.

2418
2419 This paragraph does not abrogate other applicable provisions of
2420 state or federal law providing payment of death benefits.

2421 (e)~~(d)~~ The benefits payable to any person under the
2422 optional retirement program, and any contribution accumulated
2423 under such program, shall not be subject to assignment,
2424 execution, or attachment or to any legal process whatsoever.

2425 (f)~~(e)~~ A participant who chooses to receive his or her
2426 benefits must be terminated for 3 calendar months to be eligible
2427 to receive benefits funded by employer contributions. A
2428 participant upon termination as defined in s. 121.021 must
2429 notify the provider company of the date he or she wishes
2430 benefits funded by required employee and employer contributions
2431 to begin and must meet termination as defined in s. 121.021
2432 after the initial benefit payment or distribution. Benefits may
2433 be deferred until the participant chooses to make such
2434 application.

2435 (g)~~(f)~~ Benefits funded by the participant's voluntary
2436 personal contributions may be paid out at any time and in any

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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 17. 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 participants in such optional retirement program~~ shall be provided through member-directed ~~employee-directed~~ investments, in accordance with s. 401(a) of the Internal Revenue Code and its related regulations. The employer and members ~~employers~~ shall make contributions ~~contribute~~, as provided in this section and ~~ss. 121.571, and 121.71,~~ to the Florida Retirement System Investment Plan ~~Public Employee Optional Retirement Program~~

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2465 Trust Fund toward the funding of ~~such optional~~ benefits.

2466 (2) DEFINITIONS.—As used in this part, the term:

2467 (a) "Approved provider" or "provider" means a private

2468 sector company that is selected and approved by the state board

2469 to offer one or more investment products or services to the

2470 investment plan ~~optional retirement program~~. The term includes a

2471 bundled provider that offers members ~~participants~~ a range of

2472 individually allocated or unallocated investment products and

2473 may offer a range of administrative and customer services, which

2474 may include accounting and administration of individual member

2475 ~~participant~~ benefits and contributions; individual member

2476 ~~participant~~ recordkeeping; asset purchase, control, and

2477 safekeeping; direct execution of the member's ~~participant's~~

2478 instructions as to asset and contribution allocation;

2479 calculation of daily net asset values; direct access to member

2480 ~~participant~~ account information; periodic reporting to members

2481 ~~participants~~, at least quarterly, on account balances and

2482 transactions; guidance, advice, and allocation services directly

2483 relating to the provider's own investment options or products,

2484 but only if the bundled provider complies with the standard of

2485 care of s. 404(a)(1)(A-B) of the Employee Retirement Income

2486 Security Act of 1974 (ERISA), and if providing such guidance,

2487 advice, or allocation services does not constitute a prohibited

2488 transaction under s. 4975(c)(1) of the Internal Revenue Code or

2489 s. 406 of ERISA, notwithstanding that such prohibited

2490 transaction provisions do not apply to the ~~optional~~ retirement

2491 program; a broad array of distribution options; asset

2492 allocation; and retirement counseling and education. Private

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sector companies include investment management companies, insurance companies, depositories, and mutual fund companies.

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

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

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

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

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

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

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

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

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

~~(l)(k)~~ "Retiree" means a former member participant of the investment plan ~~optional retirement program~~ who has terminated employment and ~~has~~ taken any a distribution of vested employee

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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 participate in the investment plan ~~Public Employee Optional Retirement Program~~ shall retain all retirement service credit earned under the pension plan ~~defined benefit retirement program of the Florida Retirement System~~ as credited under the system and is ~~shall be~~ entitled to a deferred benefit upon termination, ~~if eligible under the system.~~ However, election to participate in the investment plan ~~Public Employee Optional Retirement~~

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2577 ~~Program~~ terminates the active membership of the employee in the
2578 pension plan ~~defined benefit program of the Florida Retirement~~
2579 ~~System~~, and the service of a member participant in the
2580 investment plan ~~is Public Employee Optional Retirement Program~~
2581 shall not be creditable under the pension plan ~~defined benefit~~
2582 ~~retirement program of the Florida Retirement System~~ for purposes
2583 of benefit accrual but is creditable ~~shall be credited~~ for
2584 purposes of vesting.

2585 (b)(c)1. Notwithstanding paragraph (a), ~~an (b)~~, each
2586 eligible employee who elects to participate in the investment
2587 plan ~~Public Employee Optional Retirement Program~~ and establishes
2588 one or more individual member participant accounts ~~under the~~
2589 ~~optional program~~ may elect to transfer to the investment plan
2590 ~~optional program~~ a sum representing the present value of the
2591 employee's accumulated benefit obligation under the pension plan
2592 ~~defined benefit retirement program of the Florida Retirement~~
2593 ~~System~~. Upon ~~such~~ transfer, all service credit ~~previously~~ earned
2594 under the pension plan ~~is defined benefit program of the Florida~~
2595 ~~Retirement System shall be~~ nullified for purposes of entitlement
2596 to a future benefit under the pension plan ~~defined benefit~~
2597 ~~program of the Florida Retirement System~~. A member may not
2598 transfer participant ~~is precluded from transferring the~~
2599 accumulated benefit obligation balance from the pension plan
2600 after the time ~~defined benefit program upon the expiration of~~
2601 ~~the period for enrolling~~ afforded to enroll in the investment
2602 plan has expired ~~optional program~~.

2603 1.2. For purposes of this subsection, the present value of
2604 the member's accumulated benefit obligation is based upon the

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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 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:

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2633 (A)~~(I)~~ Age 62; or

2634 (B)~~(II)~~ The age the member would attain if the member

2635 completed 30 years of service with an employer, assuming the

2636 member worked continuously from the estimate date, and

2637 disregarding any vesting requirement that would otherwise apply

2638 under the pension plan ~~defined benefit program of the Florida~~

2639 ~~Retirement System.~~

2640 (II) For a member initially enrolled on or after July 1,

2641 2011, the benefit commencement age is the younger of the

2642 following, but may not be younger than the member's age as of

2643 the estimate date:

2644 (A) Age 65; or

2645 (B) The age the member would attain if the member

2646 completed 33 years of service with an employer, assuming the

2647 member worked continuously from the estimate date, and

2648 disregarding any vesting requirement that would otherwise apply

2649 under the pension plan.

2650 c.(I) For members of the Special Risk Class and for

2651 members of the Special Risk Administrative Support Class

2652 entitled to retain the special risk normal retirement date,

2653 initially enrolled before July 1, 2011, the benefit commencement

2654 age is ~~shall be~~ the younger of the following, but may ~~shall~~ not

2655 be younger than the member's age as of the estimate date:

2656 (A)~~(I)~~ Age 55; or

2657 (B)~~(II)~~ The age the member would attain if the member

2658 completed 25 years of service with an employer, assuming the

2659 member worked continuously from the estimate date, and

2660 disregarding any vesting requirement that would otherwise apply

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2661 under the pension plan ~~defined benefit program of the Florida~~
2662 ~~Retirement System.~~

2663 (II) For members of the Special Risk Class and for members
2664 of the Special Risk Administrative Support Class entitled to
2665 retain the special risk normal retirement date, initially
2666 enrolled on or after July 1, 2011, the benefit commencement age
2667 is the younger of the following, but may not be younger than the
2668 member's age as of the estimate date:

2669 (A) Age 60; or

2670 (B) The age the member would attain if the member
2671 completed 30 years of service with an employer, assuming the
2672 member worked continuously from the estimate date, and
2673 disregarding any vesting requirement that would otherwise apply
2674 under the pension plan.

2675 d. The calculation must ~~shall~~ disregard vesting
2676 requirements and early retirement reduction factors that would
2677 otherwise apply under the pension plan ~~defined benefit~~
2678 ~~retirement program.~~

2679 ~~2.3.~~ For each member ~~participant~~ who elects to transfer
2680 moneys from the pension plan ~~defined benefit program~~ to his or
2681 her account in the investment plan ~~optional program~~, the
2682 division shall recompute the amount transferred under
2683 subparagraph 1. ~~within 2. not later than~~ 60 days after the
2684 actual transfer of funds based upon the member's ~~participant's~~
2685 actual creditable service and actual final average compensation
2686 as of the initial date of participation in the investment plan
2687 ~~optional program~~. If the recomputed amount differs from the
2688 amount transferred ~~under subparagraph 2.~~ by \$10 or more, the

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division shall:

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

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

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

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2717 4. As directed by the member participant, the state board
2718 shall transfer or cause to be transferred the appropriate
2719 amounts to the designated accounts within. ~~The board shall~~
2720 ~~establish transfer procedures by rule, but the actual transfer~~
2721 ~~shall not be later than~~ 30 days after the effective date of the
2722 member's participation in the investment plan ~~optional program~~
2723 unless the major financial markets for securities available for
2724 a transfer are seriously disrupted by an unforeseen event that
2725 ~~which also~~ causes the suspension of trading on any national
2726 securities exchange in the country where the securities were
2727 issued. In that event, the ~~such~~ 30-day period ~~of time~~ may be
2728 extended by a resolution of the state board ~~trustees~~. Transfers
2729 are not commissionable or subject to other fees and may be in
2730 the form of securities or cash, as determined by the state
2731 board. Such securities are ~~shall be~~ valued as of the date of
2732 receipt in the member's ~~participant's~~ account.

2733 5. If the state board or the division receives
2734 notification from the United States Internal Revenue Service
2735 that this paragraph or any portion of this paragraph will cause
2736 the retirement system, or a portion thereof, to be disqualified
2737 for tax purposes under the Internal Revenue Code, ~~then~~ the
2738 portion that will cause the disqualification does not apply.
2739 Upon such notice, the state board and the division shall notify
2740 the presiding officers of the Legislature.

2741 (4) PARTICIPATION; ENROLLMENT.—

2742 (a)1. With respect to an eligible employee who is employed
2743 in a regularly established position on June 1, 2002, by a state
2744 employer:

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2745 a. Any such employee may elect to participate in the
2746 investment plan ~~Public Employee Optional Retirement Program~~ in
2747 lieu of retaining his or her membership in the pension plan
2748 ~~defined benefit program of the Florida Retirement System~~. The
2749 election must be made in writing or by electronic means and must
2750 be filed with the third-party administrator by August 31, 2002,
2751 or, in the case of an active employee who is on a leave of
2752 absence on April 1, 2002, by the last business day of the 5th
2753 month following the month the leave of absence concludes. This
2754 election is irrevocable, except as provided in paragraph (g)
2755 ~~(e)~~. Upon making such election, the employee shall be enrolled
2756 as a member participant of the investment plan ~~Public Employee~~
2757 ~~Optional Retirement Program~~, the employee's membership in the
2758 Florida Retirement System shall be governed by the provisions of
2759 this part, and the employee's membership in the pension plan
2760 ~~defined benefit program of the Florida Retirement System~~ shall
2761 terminate. The employee's enrollment in the investment plan
2762 ~~Public Employee Optional Retirement Program~~ shall be effective
2763 the first day of the month for which a full month's employer
2764 contribution is made to the investment plan ~~optional program~~.

2765 b. Any such employee who fails to elect to participate in
2766 the investment plan ~~Public Employee Optional Retirement Program~~
2767 within the prescribed time period is deemed to have elected to
2768 retain membership in the pension plan ~~defined benefit program of~~
2769 ~~the Florida Retirement System~~, and the employee's option to
2770 elect to participate in the investment plan ~~optional program~~ is
2771 forfeited.

2772 2. With respect to employees who become eligible to

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2773 participate in the investment plan ~~Public Employee Optional~~
2774 ~~Retirement Program~~ by reason of employment in a regularly
2775 established position with a state employer commencing after
2776 April 1, 2002:

2777 a. Any such employee shall, by default, be enrolled in the
2778 pension plan ~~defined benefit retirement program of the Florida~~
2779 ~~Retirement System~~ at the commencement of employment, and may, by
2780 the last business day of the 5th month following the employee's
2781 month of hire, elect to participate in the investment plan
2782 ~~Public Employee Optional Retirement Program~~. The employee's
2783 election must be made in writing or by electronic means and must
2784 be filed with the third-party administrator. The election to
2785 participate in the investment plan ~~optional program~~ is
2786 irrevocable, except as provided in paragraph (g) ~~(e)~~.

2787 b. If the employee files such election within the
2788 prescribed time period, enrollment in the investment plan ~~is~~
2789 ~~optional program shall be~~ effective on the first day of
2790 employment. The ~~employer~~ retirement contributions paid through
2791 the month of the employee plan change shall be transferred to
2792 the investment ~~optional~~ program, and, effective the first day of
2793 the next month, the employer and participant must ~~shall~~ pay the
2794 applicable contributions based on the employee membership class
2795 in the ~~optional~~ program.

2796 c. ~~An Any such~~ employee who fails to elect to participate
2797 in the investment plan ~~Public Employee Optional Retirement~~
2798 ~~Program~~ within the prescribed time period is deemed to have
2799 elected to retain membership in the pension plan ~~defined benefit~~
2800 ~~program of the Florida Retirement System~~, and the employee's

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option to elect to participate in the investment plan ~~optional program~~ is forfeited.

3. With respect to employees who become eligible to participate in the investment plan ~~Public Employee Optional Retirement Program~~ pursuant to s. 121.051(2)(c)3. or s. 121.35(3)(i), ~~the any such~~ employee may elect to participate in the investment plan ~~Public Employee Optional Retirement Program~~ in lieu of retaining his or her membership ~~participation~~ in the State Community College System Optional Retirement Program or the State University System Optional Retirement Program. The election must be made in writing or by electronic means and must be filed with the third-party administrator. This election is irrevocable, except as provided in paragraph (g) ~~(e)~~. Upon making such election, the employee shall be enrolled as a member ~~in participant of the investment plan~~ ~~Public Employee Optional Retirement Program~~, the employee's membership in the Florida Retirement System shall be governed by the provisions of this part, and the employee's participation in the State Community College System Optional Retirement Program or the State University System Optional Retirement Program shall terminate. The employee's enrollment in the investment plan ~~is Public Employee Optional Retirement Program~~ shall be effective on the first day of the month for which a full month's employer and employee contribution is made to the investment plan ~~optional program~~.

4. For purposes of this paragraph, "state employer" means any agency, board, branch, commission, community college, department, institution, institution of higher education, or

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water management district of the state, which participates in the Florida Retirement System for the benefit of certain employees.

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

a. Any such employee may elect to participate in the investment plan ~~Public Employee Optional Retirement Program~~ in lieu of retaining his or her membership in the pension plan ~~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 November 30, or, in the case of an active employee who is on a leave of absence on July 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 ~~optional~~ program.

b. Any such employee who fails to elect to participate in the investment plan ~~Public Employee Optional Retirement Program~~

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2857 within the prescribed time period is deemed to have elected to
2858 retain membership in the pension plan ~~defined benefit program of~~
2859 ~~the Florida Retirement System~~, and the employee's option to
2860 elect to participate in the investment plan ~~optional program~~ is
2861 forfeited.

2862 2. With respect to employees who become eligible to
2863 participate in the investment plan ~~Public Employee Optional~~
2864 ~~Retirement Program~~ by reason of employment in a regularly
2865 established position with a district school board employer
2866 commencing after July 1, 2002:

2867 a. Any such employee shall, by default, be enrolled in the
2868 pension plan ~~defined benefit retirement program of the Florida~~
2869 ~~Retirement System~~ at the commencement of employment, and may, by
2870 the last business day of the 5th month following the employee's
2871 month of hire, elect to participate in the investment plan
2872 ~~Public Employee Optional Retirement Program~~. The employee's
2873 election must be made in writing or by electronic means and must
2874 be filed with the third-party administrator. The election to
2875 participate in the investment plan ~~optional program~~ is
2876 irrevocable, except as provided in paragraph (g) ~~(e)~~.

2877 b. If the employee files such election within the
2878 prescribed time period, enrollment in the investment plan
2879 ~~optional program~~ shall be effective on the first day of
2880 employment. The employer retirement contributions paid through
2881 the month of the employee plan change shall be transferred to
2882 the investment plan ~~optional program~~, and, effective the first
2883 day of the next month, the employer shall pay the applicable
2884 contributions based on the employee membership class in the

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investment plan ~~optional program~~.

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

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

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

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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:

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

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be filed with the third-party administrator. The election to participate in the investment plan ~~optional program~~ is irrevocable, except as provided in paragraph (g) ~~(e)~~.

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

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

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

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

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2969 (e) On or after July 1, 2011, a member of the pension plan
2970 who obtains a refund of employee contributions retains his or
2971 her prior plan choice upon return to employment in a regularly
2972 established position with a participating employer.

2973 (f) A member of the investment plan who takes a
2974 distribution of any contributions from his or her investment
2975 plan account is considered a retiree. Upon reemployment in a
2976 regularly established position with a participating employer,
2977 the member returns as a new hire. A retiree who is initially
2978 reemployed on or after July 1, 2010, is not eligible for renewed
2979 membership.

2980 (g) ~~(e)~~ After the period during which an eligible employee
2981 had the choice to elect the pension plan ~~defined benefit program~~
2982 or the investment plan ~~optional retirement program~~, or the month
2983 following the receipt of the eligible employee's plan election,
2984 if sooner, the employee shall have one opportunity, at the
2985 employee's discretion, to choose to move from the pension plan
2986 ~~defined benefit program~~ to the investment plan ~~optional~~
2987 ~~retirement program~~ or from the investment plan ~~optional~~
2988 ~~retirement program~~ to the pension plan ~~defined benefit program~~.
2989 Eligible employees may elect to move between Florida Retirement
2990 System programs only if they are earning service credit in an
2991 employer-employee relationship consistent with s.
2992 121.021(17)(b), excluding leaves of absence without pay.
2993 Effective July 1, 2005, such elections are effective on the
2994 first day of the month following the receipt of the election by
2995 the third-party administrator and are not subject to the
2996 requirements regarding an employer-employee relationship or

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2997 receipt of contributions for the eligible employee in the
2998 effective month, except when the election is received by the
2999 third-party administrator. This paragraph is contingent upon
3000 approval by ~~from~~ the Internal Revenue Service ~~for including the~~
3001 ~~choice described herein within the programs offered by the~~
3002 ~~Florida Retirement System.~~

3003 1. If the employee chooses to move to the investment plan
3004 ~~optional retirement program~~, the ~~applicable~~ provisions of
3005 subsection (3) ~~this section~~ shall govern the transfer.

3006 2. If the employee chooses to move to the pension plan
3007 ~~defined benefit program~~, the employee must transfer from his or
3008 her investment plan ~~optional retirement program~~ account, and
3009 from other employee moneys as necessary, a sum representing the
3010 present value of that employee's accumulated benefit obligation
3011 immediately following the time of such movement, determined
3012 assuming that attained service equals the sum of service in the
3013 pension plan ~~defined benefit program~~ and service in the
3014 investment plan ~~optional retirement program~~. Benefit
3015 commencement occurs on the first date the employee is eligible
3016 for unreduced benefits, using the discount rate and other
3017 relevant actuarial assumptions that were used to value the
3018 pension ~~defined benefit~~ plan liabilities in the most recent
3019 actuarial valuation. For any employee who, at the time of the
3020 second election, already maintains an accrued benefit amount in
3021 the pension plan ~~defined benefit program~~, the then-present value
3022 of the accrued benefit shall be deemed part of the required
3023 transfer amount. The division shall ensure that the transfer sum
3024 is prepared using a formula and methodology certified by an

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3025 enrolled actuary. A refund of any employee contributions or
3026 additional member payments made which exceed the employee
3027 contributions that would have accrued had the member remained in
3028 the pension plan and not transferred to the investment plan is
3029 not permitted.

3030 3. Notwithstanding subparagraph 2., an employee who
3031 chooses to move to the pension plan ~~defined benefit program~~ and
3032 who became eligible to participate in the investment plan
3033 ~~optional retirement program~~ by reason of employment in a
3034 regularly established position with a state employer after June
3035 1, 2002; a district school board employer after September 1,
3036 2002; or a local employer after December 1, 2002, must transfer
3037 from his or her investment plan ~~optional retirement program~~
3038 account, and from other employee moneys as necessary, a sum
3039 representing the employee's actuarial accrued liability. A
3040 refund of any employee contributions or additional participant
3041 payments made which exceed the employee contributions that would
3042 have accrued had the member remained in the pension plan and not
3043 transferred to the investment plan is not permitted.

3044 4. An employee's ability to transfer from the pension plan
3045 ~~defined benefit program~~ to the investment plan ~~optional~~
3046 ~~retirement program~~ pursuant to paragraphs (a)-(d), and the
3047 ability of a current employee to have an option to later
3048 transfer back into the pension plan ~~defined benefit program~~
3049 under subparagraph 2., shall be deemed a significant system
3050 amendment. Pursuant to s. 121.031(4), any resulting unfunded
3051 liability arising from actual original transfers from the
3052 pension plan ~~defined benefit program~~ to the investment plan

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optional program must be amortized within 30 plan years as a separate unfunded actuarial base independent of the reserve stabilization mechanism defined in s. 121.031(3)(f). For the first 25 years, a direct amortization payment may not be calculated for this base. During this 25-year period, the separate base shall be used to offset the impact of employees exercising their second program election under this paragraph. ~~It is the intent of the Legislature that~~ The actuarial funded status of the pension plan will ~~defined benefit program~~ not be affected by such second program elections in any significant manner, after due recognition of the separate unfunded actuarial base. Following the initial 25-year period, any remaining balance of the original separate base shall be amortized over the remaining 5 years of the required 30-year amortization period.

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

(5) CONTRIBUTIONS.—

(a) The employee and ~~Each~~ employer shall make the required contributions to ~~contribute on behalf of each participant in the~~

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investment plan based on a percentage of the employee's gross monthly compensation ~~Public Employee Optional Retirement Program~~, as provided in part III of this chapter.

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

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

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

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

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

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

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3109 maximums.

3110 (e) ~~(e)~~ The investment plan ~~Public Employee Optional~~
3111 ~~Retirement Program~~ may accept for deposit into member
3112 ~~participant~~ accounts contributions in the form of rollovers or
3113 direct trustee-to-trustee transfers by or on behalf of members
3114 ~~participants~~, reasonably determined by the state board to be
3115 eligible for rollover or transfer to the investment plan
3116 ~~optional retirement program~~ pursuant to the Internal Revenue
3117 Code, if such contributions are made in accordance with rules ~~as~~
3118 ~~may be~~ adopted by the board. Such contributions must ~~shall~~ be
3119 accounted for in accordance with ~~any~~ applicable Internal Revenue
3120 Code requirements and rules of the state board.

3121 (6) VESTING REQUIREMENTS.—

3122 (a) A member is fully and immediately vested in all
3123 employee contributions paid to the investment plan as provided
3124 in s. 121.72(2), plus interest and earnings thereon and less
3125 investment fees and administrative charges.

3126 (b) ~~(a)~~ 1. With respect to employer contributions paid on
3127 behalf of the member ~~participant~~ to the investment plan ~~optional~~
3128 ~~retirement program~~, plus interest and earnings thereon and less
3129 investment fees and administrative charges, a member ~~participant~~
3130 is vested after completing 1 work year with an employer,
3131 including any service while the member ~~participant~~ was a member
3132 of the pension plan ~~defined benefit program~~ or an optional
3133 retirement program authorized under s. 121.051(2)(c) or s.
3134 121.055(6).

3135 2. If the member ~~participant~~ terminates employment before
3136 satisfying the vesting requirements, the nonvested accumulation

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3137 must be transferred from the member's ~~participant's~~ accounts to
3138 the state board for deposit and investment by the state board in
3139 its ~~the~~ suspense account created within the Florida Retirement
3140 System Investment Plan ~~Public Employee Optional Retirement~~
3141 ~~Program~~ Trust Fund. If the terminated member ~~participant~~ is
3142 reemployed as an eligible employee within 5 years, the state
3143 board shall transfer to the member's ~~participant's~~ account any
3144 amount previously transferred from the member's ~~participant's~~
3145 accounts to the suspense account, plus actual earnings on such
3146 amount while in the suspense account.

3147 (c) (b) 1. With respect to amounts contributed by an
3148 employer and transferred from the pension plan ~~defined benefit~~
3149 ~~program~~ to the investment plan ~~program~~, plus interest and
3150 earnings, and less investment fees and administrative charges, a
3151 member ~~participant~~ shall be vested in the amount transferred
3152 upon meeting the service requirements for the member's
3153 ~~participant's~~ membership class as set forth in s. 121.021(29).
3154 The third-party administrator shall account for such amounts for
3155 each member ~~participant~~. The division shall notify the member
3156 ~~participant~~ and the third-party administrator when the member
3157 ~~participant~~ has satisfied the vesting period for Florida
3158 Retirement System purposes.

3159 2. If the member ~~participant~~ terminates employment before
3160 satisfying the vesting requirements, the nonvested accumulation
3161 must be transferred from the member's ~~participant's~~ accounts to
3162 the state board for deposit and investment by the state board in
3163 the suspense account created within the Florida Retirement
3164 System Investment Plan ~~Public Employee Optional Retirement~~

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3165 ~~Program~~ Trust Fund. If the terminated member ~~participant~~ is
3166 reemployed as an eligible employee within 5 years, the state
3167 board shall transfer to the member's accounts ~~participant's~~
3168 ~~account~~ any amount previously transferred from the member's
3169 ~~participant's~~ accounts to the suspense account, plus the actual
3170 earnings on such amount while in the suspense account.

3171 (d) ~~(e)~~ Any nonvested accumulations transferred from a
3172 member's ~~participant's~~ account to the state board's suspense
3173 account shall be forfeited, including accompanying service
3174 credit, by the member ~~participant~~ if the member ~~participant~~ is
3175 not reemployed as an eligible employee within 5 years after
3176 termination.

3177 (e) If the member elects to receive any of his or her
3178 vested employee or employer contributions upon termination of
3179 employment as provided in s. 121.021(39) (a), except for a
3180 mandatory distribution of a de minimis account authorized by the
3181 state board or a minimum required distribution provided by s.
3182 401(a) (9) of the Internal Revenue Code, the member shall forfeit
3183 all nonvested employer contributions, and accompanying service
3184 credit, paid on behalf of the member to the investment plan.

3185 (7) BENEFITS.—Under the investment plan, benefits must
3186 ~~Public Employee Optional Retirement Program:~~

3187 (a) ~~Benefits shall~~ Be provided in accordance with s.
3188 401(a) of the Internal Revenue Code.

3189 (b) ~~Benefits shall~~ Accrue in individual accounts that are
3190 member-directed ~~participant-directed~~, portable, and funded by
3191 employer and employee contributions and earnings thereon.

3192 (c) ~~Benefits shall~~ Be payable in accordance with ~~the~~

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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 ~~optional program~~.

~~(a)-(b)~~ 1. The state board shall select and contract with a ~~one~~ third-party administrator to provide administrative services if those services cannot be competitively and contractually provided by the division of Retirement within the Department of Management Services. With the approval of the state board, the third-party administrator may subcontract ~~with other~~

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3221 ~~organizations or individuals~~ to provide components of the
3222 administrative services. As a cost of administration, the state
3223 board may compensate any such contractor for its services, in
3224 accordance with the terms of the contract, as is deemed
3225 necessary or proper by the board. The third-party administrator
3226 may not be an approved provider or be affiliated with an
3227 approved provider.

3228 2. These administrative services may include, but are not
3229 limited to, enrollment of eligible employees, collection of
3230 employer and employee contributions, disbursement of ~~such~~
3231 contributions to approved providers in accordance with the
3232 allocation directions of members ~~participants~~; services relating
3233 to consolidated billing; individual and collective recordkeeping
3234 and accounting; asset purchase, control, and safekeeping; and
3235 direct disbursement of funds to and from the third-party
3236 administrator, the division, the state board, employers, members
3237 ~~participants~~, approved providers, and beneficiaries. This
3238 section does not prevent or prohibit a bundled provider from
3239 providing any administrative or customer service, including
3240 accounting and administration of individual member ~~participant~~
3241 benefits and contributions; individual member ~~participant~~
3242 recordkeeping; asset purchase, control, and safekeeping; direct
3243 execution of the member's ~~participant's~~ instructions as to asset
3244 and contribution allocation; calculation of daily net asset
3245 values; direct access to member ~~participant~~ account information;
3246 or periodic reporting to members ~~participants~~, at least
3247 quarterly, on account balances and transactions, if these
3248 services are authorized by the state board as part of the

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contract.

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

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

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3277 (c)1. In evaluating and selecting a third-party
3278 administrator, the state board shall establish criteria for
3279 evaluating ~~under which it shall consider~~ the relative
3280 capabilities and qualifications of each proposed administrator.
3281 In developing such criteria, the state board shall consider:

3282 a. The administrator's demonstrated experience in
3283 providing administrative services to public or private sector
3284 retirement systems.

3285 b. The administrator's demonstrated experience in
3286 providing daily valued recordkeeping to defined contribution
3287 programs ~~plans~~.

3288 c. The administrator's ability and willingness to
3289 coordinate its activities with ~~the Florida Retirement System~~
3290 employers, the state board, and the division, and to supply to
3291 such employers, the board, and the division the information and
3292 data they require, including, but not limited to, monthly
3293 management reports, quarterly member ~~participant~~ reports, and ad
3294 hoc reports requested by the department or state board.

3295 d. The cost-effectiveness and levels of the administrative
3296 services provided.

3297 e. The administrator's ability to interact with the
3298 members ~~participants~~, the employers, the state board, the
3299 division, and the providers; the means by which members
3300 ~~participants~~ may access account information, direct investment
3301 of contributions, make changes to their accounts, transfer
3302 moneys between available investment vehicles, and transfer
3303 moneys between investment products; and any fees that apply to
3304 such activities.

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

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

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

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

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

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

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

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

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

1. The nature and extent of the rights and benefits to be

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3333 afforded in relation to the ~~required~~ contributions required
3334 under the plan ~~program~~.

3335 2. The suitability of the rights and benefits provided ~~to~~
3336 ~~be afforded~~ and the interests of employers in the recruitment
3337 and retention of eligible employees.

3338 (e)1. The state board may contract ~~with any consultant~~ for
3339 professional services, including legal, consulting, accounting,
3340 and actuarial services, deemed necessary to implement and
3341 administer the investment plan ~~optional program by the Trustees~~
3342 ~~of the State Board of Administration~~. The state board may enter
3343 into a contract with one or more vendors to provide low-cost
3344 investment advice to members ~~participants~~, supplemental to
3345 education provided by the third-party administrator. All fees
3346 under any such contract shall be paid by those members
3347 ~~participants~~ who choose to use the services of the vendor.

3348 2. The department may contract ~~with consultants~~ for
3349 professional services, including legal, consulting, accounting,
3350 and actuarial services, deemed necessary to implement and
3351 administer the investment plan ~~optional program~~ in coordination
3352 with the pension plan ~~defined benefit program of the Florida~~
3353 ~~Retirement System~~. The department, in coordination with the
3354 state board, may enter into a contract with the third-party
3355 administrator in order to coordinate services common to the
3356 various programs within the Florida Retirement System.

3357 (f) The third-party administrator may ~~shall~~ not receive
3358 direct or indirect compensation from an approved provider,
3359 except as specifically provided for in the contract with the
3360 state board.

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3361 (g) The state board shall receive and resolve member
3362 ~~participant~~ complaints against the program, the third-party
3363 administrator, or any program vendor or provider; shall resolve
3364 any conflict between the third-party administrator and an
3365 approved provider if such conflict threatens the implementation
3366 or administration of the program or the quality of services to
3367 employees; and may resolve any other conflicts. The third-party
3368 administrator shall retain all member ~~participant~~ records for at
3369 least 5 years for use in resolving any member ~~participant~~
3370 conflicts. The state board, the third-party administrator, or a
3371 provider is not required to produce documentation or an audio
3372 recording to justify action taken with regard to a member
3373 ~~participant~~ if the action occurred 5 or more years before the
3374 complaint is submitted to the state board. It is presumed that
3375 all action taken 5 or more years before the complaint is
3376 submitted was taken at the request of the member ~~participant~~ and
3377 with the member's ~~participant's~~ full knowledge and consent. To
3378 overcome this presumption, the member ~~participant~~ must present
3379 documentary evidence or an audio recording demonstrating
3380 otherwise.

3381 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

3382 (a) The state board shall develop policy and procedures
3383 for selecting, evaluating, and monitoring the performance of
3384 approved providers and investment products ~~to which employees~~
3385 ~~may direct retirement contributions~~ under the investment plan
3386 ~~program~~. In accordance with such policy and procedures, the
3387 state board shall designate and contract for a number of
3388 investment products as determined by the board. The board shall

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3389 also select one or more bundled providers, each of which ~~whom~~
3390 may offer multiple investment options and related services, if
3391 ~~when~~ such ~~an~~ approach is determined by the board to provide
3392 ~~afford~~ value to the members ~~participants~~ otherwise not available
3393 through individual investment products. Each approved bundled
3394 provider may offer investment options that provide members
3395 ~~participants~~ with the opportunity to invest in each of the
3396 following asset classes, to be composed of individual options
3397 that represent ~~either~~ a single asset class or a combination
3398 thereof: money markets, United States fixed income, United
3399 States equities, and foreign stock. The state board shall review
3400 and manage all educational materials, contract terms, fee
3401 schedules, and other aspects of the approved provider
3402 relationships to ensure that no provider is unduly favored or
3403 penalized by virtue of its status within the investment plan.

3404 (b) The state board shall consider investment options or
3405 products it considers appropriate to give members ~~participants~~
3406 the opportunity to accumulate retirement benefits, subject to
3407 the following:

3408 1. The investment plan ~~Public Employee Optional Retirement~~
3409 ~~Program~~ must offer a diversified mix of low-cost investment
3410 products that span the risk-return spectrum and may include a
3411 guaranteed account as well as investment products, such as
3412 individually allocated guaranteed and variable annuities, which
3413 meet the requirements of this subsection and combine the ability
3414 to accumulate investment returns with the option of receiving
3415 lifetime income consistent with the long-term retirement
3416 security of a pension plan and similar to the lifetime-income

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benefit provided by the Florida Retirement System.

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

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

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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.

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

7. The methods available to members ~~participants~~ to
interact with the provider company; the means by which members

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3473 ~~participants~~ may access account information, direct investment
3474 of contributions, make changes to their accounts, transfer
3475 moneys between available investment vehicles, and transfer
3476 moneys between provider companies; and any fees that apply to
3477 such activities.

3478 8. The provider company's policies with respect to the
3479 transfer of individual account balances, contributions, and
3480 earnings thereon, both internally among investment products
3481 offered by the provider company and externally between approved
3482 providers, as well as any fees, charges, reductions, or
3483 penalties that may be applied.

3484 9. An evaluation of specific investment products, taking
3485 into account each product's experience in meeting its investment
3486 return objectives net of all related fees, expenses, and
3487 charges, including, but not limited to, investment management
3488 fees, loads, distribution and marketing fees, custody fees,
3489 recordkeeping fees, education fees, annuity expenses, and
3490 consulting fees.

3491 10. Organizational factors, including, but not limited to,
3492 financial solvency, organizational depth, and experience in
3493 providing institutional and retail investment services.

3494 (d) By March 1, 2010, the state board shall identify and
3495 offer at least one terror-free investment product that allocates
3496 its funds among securities not subject to divestiture as
3497 provided in s. 215.473 if the investment product is deemed by
3498 the state board to be consistent with prudent investor
3499 standards. A ~~No~~ person may not bring a civil, criminal, or
3500 administrative action against an approved provider; the state

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

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investment products, which system is consistent with rules of the National Association of Securities Dealers.

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

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

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

(10) EDUCATION COMPONENT.—

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

(b) The education component must provide system members with impartial and balanced information about plan choices. The education component must involve multimedia formats. Program comparisons must, to the greatest extent possible, be based upon the retirement income that different retirement programs may

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3557 provide to the member ~~participant~~. The state board shall monitor
3558 the performance of the contract to ensure that the program is
3559 conducted in accordance with the contract, applicable law, and
3560 the rules of the state board.

3561 (c) The state board, in coordination with the department,
3562 shall provide for an initial and ongoing transfer education
3563 component to provide system members with information necessary
3564 to make informed plan choice decisions. The transfer education
3565 component must include, but is not limited to, information on:

3566 1. The amount of money available to a member to transfer
3567 to the defined contribution program.

3568 2. The features of and differences between the pension
3569 plan ~~defined benefit program~~ and the defined contribution
3570 program, both generally and specifically, as those differences
3571 may affect the member.

3572 3. The expected benefit available if the member were to
3573 retire under each of the retirement programs, based on
3574 appropriate alternative sets of assumptions.

3575 4. The rate of return from investments in the defined
3576 contribution program and the period of time over which such rate
3577 of return must be achieved to equal or exceed the expected
3578 monthly benefit payable to the member under the pension plan
3579 ~~defined benefit program~~.

3580 5. The historical rates of return for the investment
3581 alternatives available in the defined contribution programs.

3582 6. The benefits and historical rates of return on
3583 investments available in a typical deferred compensation plan or
3584 a typical plan under s. 403(b) of the Internal Revenue Code for

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which the employee may be eligible.

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

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

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

1. Rights and conditions of membership.

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

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

4. Significant program changes.

5. Contribution rates and program funding status.

6. Planning for retirement.

(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'

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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.

(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

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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, 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,~~

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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 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

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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 ~~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~~7~~ or any recommended changes ~~thereto~~, to the state board, the executive director of

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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.

(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

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3753 ~~shall be~~ liable for any loss to a member's ~~participant's~~ or
3754 beneficiary's account which results from the member's ~~such~~
3755 ~~participant's~~ or beneficiary's exercise of control.

3756 (c) Subparagraph (8) (b) 2.4. ~~and paragraph (15)~~ (b)
3757 incorporate the federal law concept of participant control,
3758 established by regulations of the United States Department of
3759 Labor under s. 404(c) of the Employee Retirement Income Security
3760 Act of 1974 (ERISA). The purpose of this paragraph is to assist
3761 employers and the state board ~~of Administration~~ in maintaining
3762 compliance with s. 404(c), while avoiding unnecessary costs and
3763 eroding member ~~participant~~ benefits under the investment plan
3764 ~~Public Employee Optional Retirement Program~~. Pursuant to 29
3765 C.F.R. s. 2550.404c-1(b) (2) (i) (B) (1) (viii), the state board ~~of~~
3766 ~~Administration~~ or its designated agents shall deliver to members
3767 ~~participants~~ of the investment plan ~~Public Employee Optional~~
3768 ~~Retirement Program~~ a copy of the prospectus most recently
3769 provided to the plan, and, pursuant to 29 C.F.R. s. 2550.404c-
3770 1(b) (2) (i) (B) (2) (ii), shall provide such members ~~participants~~ an
3771 opportunity to obtain this information, except that:

3772 1. The requirement to deliver a prospectus shall be ~~deemed~~
3773 ~~to be~~ satisfied by delivery of a fund profile or summary profile
3774 that contains the information that would be included in a
3775 summary prospectus as described by Rule 498 under the Securities
3776 Act of 1933, 17 C.F.R. s. 230.498. If ~~When~~ the transaction fees,
3777 expense information or other information provided by a mutual
3778 fund in the prospectus does not reflect terms negotiated by the
3779 state board ~~of Administration~~ or its designated agents, the
3780 ~~aforementioned~~ requirement is ~~deemed to be~~ satisfied by delivery

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3781 of a separate document described by Rule 498 substituting
3782 accurate information; and

3783 2. Delivery shall be ~~deemed to have been~~ effected if
3784 delivery is through electronic means and the following standards
3785 are satisfied:

3786 a. Electronically-delivered documents are prepared and
3787 provided consistent with style, format, and content requirements
3788 applicable to printed documents;

3789 b. Each member ~~participant~~ is provided timely and adequate
3790 notice of the documents that are to be delivered, and their
3791 significance thereof, and of the member's ~~participant's~~ right to
3792 obtain a paper copy of such documents free of charge;

3793 c. ~~(I)~~ Members ~~Participants~~ have adequate access to the
3794 electronic documents, at locations such as their worksites or
3795 public facilities, and have the ability to convert the documents
3796 to paper free of charge by the state board ~~of Administration~~,
3797 and the board or its designated agents take appropriate and
3798 reasonable measures to ensure that the system for furnishing
3799 electronic documents results in actual receipt. ~~or~~

3800 ~~(II)~~ Members ~~Participants~~ have provided consent to receive
3801 information in electronic format, which consent may be revoked;
3802 and

3803 d. The state board ~~of Administration~~, or its designated
3804 agent, actually provides paper copies of the documents free of
3805 charge, upon request.

3806 (16) DISABILITY BENEFITS.—For any member ~~participant~~ of
3807 the investment plan ~~optional retirement program~~ who becomes
3808 totally and permanently disabled, benefits must ~~shall~~ be paid in

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3809 accordance with the provisions of s. 121.591.

3810 (17) SOCIAL SECURITY COVERAGE.—Social security coverage
3811 shall be provided for all officers and employees who become
3812 members ~~participants~~ of the investment plan ~~optional program~~.
3813 Any modification of the present agreement with the Social
3814 Security Administration, or referendum required under the Social
3815 Security Act, for the purpose of providing social security
3816 coverage for any member shall be requested by the state agency
3817 in compliance with the applicable provisions of the Social
3818 Security Act governing such coverage. However, retroactive
3819 social security coverage for service prior to December 1, 1970,
3820 with the employer may ~~shall~~ not be provided for any member who
3821 was not covered under the agreement as of November 30, 1970.

3822 (18) RETIREE HEALTH INSURANCE SUBSIDY.—All officers and
3823 employees who are members ~~participants~~ of the investment plan
3824 ~~are optional program shall be~~ eligible to receive the retiree
3825 health insurance subsidy, subject to the provisions of s.
3826 112.363.

3827 (19) MEMBER PARTICIPANT RECORDS.—Personal identifying
3828 information of a member ~~participant~~ in the investment plan
3829 ~~Public Employee Optional Retirement Program~~ contained in Florida
3830 Retirement System records held by the state board ~~of~~
3831 ~~Administration~~ or the department ~~of Management Services~~ is
3832 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
3833 Constitution.

3834 (20) DESIGNATION OF BENEFICIARIES.—

3835 (a) Each member ~~participant~~ may, by electronic means or on
3836 a form provided for that purpose, signed and filed with the

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3837 third-party administrator, designate a choice of one or more
3838 persons, named sequentially or jointly, as his or her
3839 beneficiary for receiving ~~who shall receive~~ the benefits, if
3840 any, which may be payable pursuant to this chapter in the event
3841 of the member's ~~participant's~~ death. If no beneficiary is named
3842 in this manner, or if no beneficiary designated by the member
3843 ~~participant~~ survives the member ~~participant~~, the beneficiary
3844 shall be the spouse of the deceased, if living. If the member's
3845 ~~participant's~~ spouse is not alive at the time of the
3846 beneficiary's ~~his or her~~ death, the beneficiary shall be the
3847 living children of the member ~~participant~~. If no children
3848 survive, the beneficiary shall be the member's ~~participant's~~
3849 father or mother, if living; otherwise, the beneficiary shall be
3850 the member's ~~participant's~~ estate. The beneficiary most recently
3851 designated by a member ~~participant on a form or letter filed~~
3852 ~~with the third-party administrator~~ shall be the beneficiary
3853 entitled to any benefits payable at the time of the member's
3854 ~~participant's~~ death. However ~~Notwithstanding any other provision~~
3855 ~~in this subsection to the contrary~~, for a member ~~participant~~ who
3856 dies prior to his or her effective date of retirement, the
3857 spouse at the time of death shall be the member's ~~participant's~~
3858 beneficiary unless the member ~~such participant~~ designates a
3859 different beneficiary ~~as provided in this subsection~~ subsequent
3860 to the member's ~~participant's~~ most recent marriage.

3861 (b) If a member ~~participant~~ designates a primary
3862 beneficiary other than the member's ~~participant's~~ spouse, the
3863 member's ~~participant's~~ spouse must sign the beneficiary
3864 designation form to acknowledge the designation. This

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3865 requirement does not apply to the designation of one or more
3866 contingent beneficiaries to receive benefits remaining upon the
3867 death of the primary beneficiary or beneficiaries.

3868 (c) Notwithstanding the member's ~~participant's~~ designation
3869 of benefits to be paid through a trust to a beneficiary that is
3870 a natural person, ~~and notwithstanding the provisions of the~~
3871 trust, benefits must ~~shall~~ be paid directly to the beneficiary
3872 if the person is no longer a minor or an incapacitated person as
3873 defined in s. 744.102.

3874 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT
3875 OPTION PROGRAM MEMBERS ~~PARTICIPANTS~~.—Notwithstanding any other
3876 provision of law ~~to the contrary~~, members ~~participants~~ in the
3877 Deferred Retirement Option Program offered under part I may,
3878 after conclusion of their participation in the program, elect to
3879 roll over or authorize a direct trustee-to-trustee transfer to
3880 an account under the investment plan ~~Public Employee Optional~~
3881 ~~Retirement Program~~ of their Deferred Retirement Option Program
3882 proceeds distributed as provided under s. 121.091(13)(c)5. The
3883 transaction must constitute an "eligible rollover distribution"
3884 within the meaning of s. 402(c)(4) of the Internal Revenue Code.

3885 (a) The investment plan ~~Public Employee Optional~~
3886 ~~Retirement Program~~ may accept such amounts for deposit into
3887 member ~~participant~~ accounts as provided in paragraph (5) (e) ~~(e)~~.

3888 (b) The affected member ~~participant~~ shall direct the
3889 investment of his or her investment account; however, unless he
3890 or she becomes a renewed member of the Florida Retirement System
3891 under s. 121.122 and elects to participate in the investment
3892 plan ~~Public Employee Optional Retirement Program~~, no ~~employer~~

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contributions may ~~not~~ be made to the member's ~~participant's~~ account as provided under paragraph (5) (a).

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

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

Section 18. Section 121.4502, Florida Statutes, is amended to read:

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

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

(2) The Florida Retirement System Investment Plan ~~Public~~

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

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

Section 19. 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

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3949 Retirement System and shall be administered by the Department of
3950 Management Services. Funds shall be credited to the trust fund
3951 as provided in this chapter and shall be held in trust for the
3952 contributing members and employers until such time as the assets
3953 are transferred by the department to the Florida Retirement
3954 System Trust Fund, the Florida Retirement System Investment Plan
3955 ~~Public Employee Optional Retirement Program~~ Trust Fund, or other
3956 trust funds as authorized by law, to be used for the purposes of
3957 this chapter. The trust fund is exempt from the service charges
3958 imposed by s. 215.20.

3959 (3) The Department of Management Services may adopt rules
3960 governing the receipt and disbursement of amounts received by
3961 the Florida Retirement System Contributions Clearing Trust Fund
3962 from employees and employers contributing to the component plans
3963 of the Florida Retirement System.

3964 Section 20. Section 121.571, Florida Statutes, is amended
3965 to read:

3966 121.571 Contributions.—Contributions to the investment
3967 plan ~~Public Employee Optional Retirement Program~~ shall be made
3968 as follows:

3969 (1) CONTRIBUTORY NONCONTRIBUTORY PLAN.—Each member and
3970 employer shall submit ~~accomplish the~~ contributions as required
3971 by s. 121.71 ~~by a procedure in which no employee's gross salary~~
3972 ~~shall be reduced.~~

3973 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund
3974 the retirement and disability benefits provided under this part
3975 must ~~shall~~ be based on the uniform contribution rates
3976 established by s. 121.71 and on the membership class or subclass

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of the member participant. Such contributions must ~~shall~~ be allocated as provided in ss. 121.72 and 121.73.

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

Section 21. Section 121.591, Florida Statutes, is amended to read:

121.591 Payment of benefits payable under the Public Employee Optional Retirement Program of the Florida Retirement System.—Benefits may not be paid under the Florida Retirement System Investment Plan ~~this section~~ unless the member has terminated employment as provided in s. 121.021(39)(a) or is deceased and a proper application has been filed as in the manner prescribed by the state board or the department. Benefits are not payable under the investment plan before termination of employment as provided in s. 121.021(39)(a) 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. The state board or department, as appropriate, may cancel an application for retirement benefits if ~~when~~ the member or beneficiary fails to timely provide the information and

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4005 documents required by this chapter and the rules of the state
4006 board and department. In accordance with their respective
4007 responsibilities ~~as provided herein~~, the state board of
4008 ~~Administration~~ and the department of ~~Management Services~~ shall
4009 adopt rules establishing procedures for application for
4010 retirement benefits and for the cancellation of such application
4011 if when the required information or documents are not received.
4012 The state board of ~~Administration~~ and the department of
4013 ~~Management Services~~, as appropriate, are authorized to cash out
4014 a de minimis account of a member participant who has been
4015 terminated from Florida Retirement System covered employment for
4016 a minimum of 6 calendar months. A de minimis account is an
4017 account containing member and employer contributions and
4018 accumulated earnings of not more than \$5,000 made under the
4019 provisions of this chapter. Such cash-out must either be a
4020 complete lump-sum liquidation of the account balance, subject to
4021 the provisions of the Internal Revenue Code, or a lump-sum
4022 direct rollover distribution paid directly to the custodian of
4023 an eligible retirement plan, as defined by the Internal Revenue
4024 Code, on behalf of the member participant. Any nonvested
4025 accumulations and associated service credit, including amounts
4026 transferred to the suspense account of the Florida Retirement
4027 System Investment Plan Trust Fund authorized under s.
4028 121.4501(6), shall be forfeited upon payment of any vested
4029 benefit to a member or beneficiary, except for de minimis
4030 distributions or minimum required distributions as provided
4031 under this section. If any financial instrument issued for the
4032 payment of retirement benefits under this section is not

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presented for payment within 180 days after the last day of the month in which it was originally issued, the third-party administrator or other duly authorized agent of the state board of ~~Administration~~ shall cancel the instrument and credit the amount of the instrument to the suspense account of the Florida Retirement System Investment Plan ~~Public Employee Optional Retirement Program~~ Trust Fund authorized under s. 121.4501(6). Any such amounts transferred to the suspense account are payable upon a proper application, not to include earnings thereon, as provided in this section, within 10 years after the last day of the month in which the instrument was originally issued, after which time such amounts and any earnings attributable to employer contributions ~~thereon~~ shall be forfeited. Any such forfeited amounts are assets of the Florida Retirement System Investment Plan ~~Public Employee Optional Retirement Program~~ Trust Fund and are not subject to the provisions of chapter 717.

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

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

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

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

3. ~~To receive benefits,~~ The member ~~participant~~ must be

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4061 terminated from all employment with all Florida Retirement
4062 System employers, as provided in s. 121.021(39).

4063 4. Benefit payments may not be made until the member
4064 ~~participant~~ has been terminated for 3 calendar months, except
4065 that the state board may authorize by rule for the distribution
4066 of up to 10 percent of the member's ~~participant's~~ account after
4067 being terminated for 1 calendar month if the member ~~participant~~
4068 has reached the normal retirement date as defined in s. 121.021
4069 ~~of the defined benefit plan.~~

4070 5. If a member or former member of the Florida Retirement
4071 System receives an invalid distribution ~~from the Public Employee~~
4072 ~~Optional Retirement Program Trust Fund~~, such person must either
4073 repay the full amount ~~invalid distribution to the trust fund~~
4074 within 90 days after receipt of final notification by the state
4075 board or the third-party administrator that the distribution was
4076 invalid, or, in lieu of repayment, the member must terminate
4077 employment from all participating employers. If such person
4078 fails to repay the full invalid distribution within 90 days
4079 after receipt of final notification, the person may be deemed
4080 retired from the investment plan ~~optional retirement program~~ by
4081 the state board, ~~as provided pursuant to s. 121.4501(2)(k), and~~
4082 is subject to s. 121.122. If such person is deemed retired ~~by~~
4083 ~~the state board~~, any joint and several liability set out in s.
4084 121.091(9)(d)2. is ~~becomes null and void~~, and the state board,
4085 the department, or the employing agency is not liable for gains
4086 on payroll contributions that have not been deposited to the
4087 person's account in the investment plan ~~retirement program~~,
4088 pending resolution of the invalid distribution. The member or

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

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

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

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

2. A lump-sum direct rollover distribution whereby all accrued benefits, plus interest and investment earnings, are paid from the member's ~~participant's~~ account directly to the custodian of an eligible retirement plan, as defined in s.

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

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

1. All moneys accumulated in the member's ~~participant's~~
~~Public Employee Optional Retirement Program~~ accounts, including

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4145 vested and nonvested accumulations as described in s.
4146 121.4501(6), must ~~shall~~ be transferred from such individual
4147 accounts to the division ~~of Retirement~~ for deposit in the
4148 disability account of the Florida Retirement System Trust Fund.
4149 Such moneys must ~~shall~~ be ~~separately~~ accounted for separately.
4150 Earnings must ~~shall~~ be credited on an annual basis for amounts
4151 held in the disability accounts of the Florida Retirement System
4152 Trust Fund based on actual earnings of the ~~Florida Retirement~~
4153 ~~System~~ trust fund.

4154 2. If the member participant has retained retirement
4155 credit ~~he or she had~~ earned under the pension plan defined
4156 ~~benefit program of the Florida Retirement System~~ as provided in
4157 s. 121.4501(3) ~~(b)~~, a sum representing the actuarial present
4158 value of such credit within the Florida Retirement System Trust
4159 Fund shall be reassigned by the division ~~of Retirement~~ from the
4160 pension plan defined benefit program to the disability program
4161 as implemented under this subsection and shall be deposited in
4162 the disability account of the ~~Florida Retirement System~~ trust
4163 fund. Such moneys must ~~shall~~ be ~~separately~~ accounted for
4164 separately.

4165 (b) Disability retirement; entitlement.—

4166 1. A member participant of the investment plan ~~Public~~
4167 ~~Employee Optional Retirement Program~~ who becomes totally and
4168 permanently disabled, as defined in paragraph (d) ~~s.~~
4169 ~~121.091(4) (b)~~, after completing 8 years of creditable service,
4170 or a member participant who becomes totally and permanently
4171 disabled in the line of duty regardless of ~~his or her~~ length of
4172 service, is ~~shall be~~ entitled to a monthly disability benefit ~~as~~

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~~provided herein.~~

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

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

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

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

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

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4201 (c) Disability retirement effective date.—The effective
4202 retirement date for a member ~~participant~~ who applies and is
4203 approved for disability retirement shall be established as
4204 provided under s. 121.091(4)(a)2. and 3.

4205 (d) Total and permanent disability.—A member ~~participant~~
4206 shall be considered totally and permanently disabled if, in the
4207 opinion of the division, he or she is prevented, by reason of a
4208 medically determinable physical or mental impairment, from
4209 rendering useful and efficient service as an officer or
4210 employee.

4211 (e) Proof of disability.—~~The division,~~ Before approving
4212 payment of any disability retirement benefit, the division shall
4213 require proof that the member ~~participant~~ is totally and
4214 permanently disabled ~~in the same manner as provided for members~~
4215 ~~of the defined benefit program of the Florida Retirement System~~
4216 under s. 121.091(4)(c).

4217 (f) Disability retirement benefit.—Upon the disability
4218 retirement of a member ~~participant~~ under this subsection, the
4219 member ~~participant~~ shall receive a monthly benefit that begins
4220 accruing ~~shall begin to accrue~~ on the first day of the month of
4221 disability retirement, as approved by the division, and is ~~shall~~
4222 ~~be~~ payable on the last day of that month and each month
4223 thereafter during his or her lifetime and continued disability.
4224 All disability benefits must ~~payable to such member shall~~ be
4225 paid out of the disability account of the Florida Retirement
4226 System Trust Fund established under this subsection.

4227 (g) Computation of disability retirement benefit.—The
4228 amount of each monthly payment must ~~shall~~ be calculated ~~in the~~

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4229 ~~same manner~~ as provided for members of the defined benefit
4230 ~~program of the Florida Retirement System~~ under s. 121.091(4)(f).
4231 ~~For such purpose,~~ Creditable service under both the pension plan
4232 ~~defined benefit program~~ and the investment plan ~~Public Employee~~
4233 ~~Optional Retirement Program of the Florida Retirement System~~
4234 shall be applicable as provided under paragraph (b).

4235 (h) Reapplication.—A member ~~participant~~ whose initial
4236 application for disability retirement ~~is~~ has been denied may
4237 reapply for disability benefits ~~in the same manner, and under~~
4238 ~~the same conditions,~~ as provided for members of the defined
4239 ~~benefit program of the Florida Retirement System~~ under s.
4240 121.091(4)(g).

4241 (i) Membership.—Upon approval of a member's ~~an~~ application
4242 for disability benefits ~~under this subsection,~~ the member
4243 ~~applicant~~ shall be transferred to the pension plan ~~defined~~
4244 ~~benefit program of the Florida Retirement System,~~ effective upon
4245 his or her disability retirement effective date.

4246 (j) Option to cancel.—A member ~~Any participant~~ whose
4247 application for disability benefits is approved may cancel the
4248 ~~his or her application if for disability benefits, provided that~~
4249 the cancellation request is received by the division before a
4250 disability retirement warrant has been deposited, cashed, or
4251 received by direct deposit. Upon ~~such~~ cancellation:

4252 1. The member's ~~participant's~~ transfer to the pension plan
4253 ~~defined benefit program~~ under paragraph (i) shall be nullified;

4254 2. The member ~~participant~~ shall be retroactively
4255 reinstated in the investment plan ~~Public Employee Optional~~
4256 ~~Retirement Program~~ without hiatus;

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4257 3. All funds transferred to the Florida Retirement System
4258 Trust Fund under paragraph (a) must ~~shall~~ be returned to the
4259 member participant accounts from which the ~~such~~ funds were
4260 drawn; and

4261 4. The member participant may elect to receive the benefit
4262 payable under ~~the provisions of~~ subsection (1) in lieu of
4263 disability benefits ~~as provided under this subsection.~~

4264 (k) Recovery from disability.—

4265 1. The division may require periodic reexaminations at the
4266 expense of the disability program account of the Florida
4267 Retirement System Trust Fund. Except as ~~otherwise~~ provided in
4268 subparagraph 2., ~~the requirements, procedures, and restrictions~~
4269 ~~relating to the conduct and review of such reexaminations,~~
4270 ~~discontinuation or termination of benefits, reentry into~~
4271 ~~employment, disability retirement after reentry into covered~~
4272 ~~employment, and all other matters relating to recovery from~~
4273 disability shall be ~~the same~~ as provided ~~are set forth~~ under s.
4274 121.091(4) (h) .

4275 2. Upon recovery from disability, the ~~any~~ recipient of
4276 disability retirement benefits under this subsection shall be a
4277 compulsory member of the investment plan ~~Public Employee~~
4278 ~~Optional Retirement Program of the Florida Retirement System.~~
4279 The net difference between the recipient's original account
4280 balance transferred to the Florida Retirement System Trust Fund,
4281 including earnings, ~~under paragraph (a)~~ and total disability
4282 benefits paid to such recipient, if any, shall be determined as
4283 provided in sub-subparagraph a.

4284 a. An amount equal to the total benefits paid shall be

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4285 subtracted from that portion of the transferred account balance
4286 consisting of vested accumulations as described under s.
4287 121.4501(6), if any, and an amount equal to the remainder of
4288 benefit amounts paid, if any, shall ~~then~~ be subtracted from any
4289 remaining ~~portion consisting of~~ nonvested accumulations ~~as~~
4290 ~~described under s. 121.4501(6).~~

4291 b. Amounts subtracted under sub-subparagraph a. must ~~shall~~
4292 be retained within the disability account of the Florida
4293 Retirement System Trust Fund. Any remaining account balance
4294 shall be transferred to the third-party administrator for
4295 disposition as provided under sub-subparagraph c. or sub-
4296 subparagraph d., as appropriate.

4297 c. If the recipient returns to covered employment,
4298 transferred amounts must ~~shall~~ be deposited in individual
4299 accounts under the investment plan ~~Public Employee Optional~~
4300 ~~Retirement Program~~, as directed by the member ~~participant~~.
4301 Vested and nonvested amounts shall be separately accounted for
4302 as provided in s. 121.4501(6).

4303 d. If the recipient fails to return to covered employment
4304 upon recovery from disability:

4305 (I) Any remaining vested amount must ~~shall~~ be deposited in
4306 individual accounts under the investment plan ~~Public Employee~~
4307 ~~Optional Retirement Program~~, as directed by the member
4308 ~~participant~~, and is ~~shall~~ be payable as provided in subsection
4309 (1).

4310 (II) Any remaining nonvested amount must ~~shall~~ be held in
4311 a suspense account and is ~~shall~~ be forfeitable after 5 years as
4312 provided in s. 121.4501(6).

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4313 3. If present value was reassigned from the pension plan
4314 ~~defined benefit program~~ to the disability program ~~of the Florida~~
4315 ~~Retirement System~~ as provided under subparagraph (a)2., the full
4316 present value amount must ~~shall~~ be returned to the defined
4317 benefit account within the Florida Retirement System Trust Fund
4318 and the member's ~~affected individual's~~ associated retirement
4319 credit under the pension plan must ~~defined benefit program shall~~
4320 be reinstated in full. Any benefit based upon such credit must
4321 ~~shall~~ be calculated as provided in s. 121.091(4)(h)1.

4322 (1) Nonadmissible causes of disability.—A member is
4323 ~~participant shall~~ not be entitled to ~~receive~~ a disability
4324 retirement benefit if the disability results from any injury or
4325 disease ~~sustained or inflicted~~ as described in s. 121.091(4)(i).

4326 (m) Disability retirement of justice or judge by order of
4327 Supreme Court.—

4328 1. If a member ~~participant~~ is a justice of the Supreme
4329 Court, judge of a district court of appeal, circuit judge, or
4330 judge of a county court who has served for 6 years or more as an
4331 elected constitutional judicial officer, including service as a
4332 judicial officer in any court abolished pursuant to Art. V of
4333 the State Constitution, and who is retired for disability ~~by~~
4334 ~~order of the Supreme Court upon recommendation of the Judicial~~
4335 ~~Qualifications Commission~~ pursuant to s. 12, ~~the provisions of~~
4336 Art. V of the State Constitution, the member's ~~participant's~~
4337 Option 1 monthly disability benefit amount as provided in s.
4338 121.091(6)(a)1. shall be two-thirds of his or her monthly
4339 compensation as of the member's ~~participant's~~ disability
4340 retirement date. The member ~~Such a participant~~ may alternatively

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4341 elect to receive an actuarially adjusted disability retirement
4342 benefit under any other option as provided in s. 121.091(6)(a),
4343 or to receive the normal benefit payable under ~~the Public~~
4344 ~~Employee Optional Retirement Program as set forth in~~ subsection
4345 (1).

4346 2. If any justice or judge who is a member ~~participant~~ of
4347 the investment plan ~~Public Employee Optional Retirement Program~~
4348 ~~of the Florida Retirement System~~ is retired for disability ~~by~~
4349 ~~order of the Supreme Court upon recommendation of the Judicial~~
4350 ~~Qualifications Commission pursuant to s. 12, the provisions of~~
4351 Art. V of the State Constitution and elects to receive a monthly
4352 disability benefit under the provisions of this paragraph:

4353 a. Any present value amount that was transferred to his or
4354 her investment plan ~~program~~ account and all employee and
4355 employer contributions made to such account on his or her
4356 behalf, plus interest and earnings thereon, must ~~shall~~ be
4357 transferred to and deposited in the disability account of the
4358 Florida Retirement System Trust Fund; and

4359 b. The monthly disability benefits payable under this
4360 paragraph ~~for any affected justice or judge retired from the~~
4361 ~~Florida Retirement System pursuant to Art. V of the State~~
4362 ~~Constitution~~ shall be paid from the disability account of the
4363 Florida Retirement System Trust Fund.

4364 (n) Death of retiree or beneficiary.—Upon the death of a
4365 disabled retiree or beneficiary of the retiree ~~thereof~~ who is
4366 receiving monthly disability benefits under this subsection, the
4367 monthly benefits shall be paid through the last day of the month
4368 of death and shall terminate, or be adjusted, if applicable, as

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of that date in accordance with the optional form of benefit selected at the time of retirement. The department ~~of Management Services~~ may adopt rules necessary to administer this paragraph.

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

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

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

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

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

(b) In the event of a member's ~~participant's~~ death, all vested accumulations as described in s. 121.4501(6), less withholding taxes remitted to the Internal Revenue Service, shall be distributed, as provided in paragraph (c) or as described in s. 121.4501(20), as if the member ~~participant~~ retired on the date of death. No other death benefits are ~~shall be~~ available for survivors of members ~~participants~~ under the ~~Public Employee Optional Retirement Program~~, except for such benefits, or coverage for such benefits, as are otherwise provided by law or are separately provided ~~afforded~~ by the employer, at the employer's discretion.

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

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properly executed application for distribution of benefits, the total accumulated benefit is ~~shall be~~ payable by the third-party administrator to the member's ~~participant's~~ surviving beneficiary or beneficiaries, as:

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

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

3. A partial lump-sum payment whereby a portion of the accrued benefit is paid to the deceased member's ~~participant's~~ surviving spouse or other designated beneficiaries, less withholding taxes remitted to the Internal Revenue Service, and the remaining amount is transferred directly to the custodian of an eligible retirement plan, if permitted, 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 member ~~participant~~ or the surviving beneficiary.

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

(4) LIMITATION ON LEGAL PROCESS.—The benefits payable to any person under the investment plan ~~Public Employee Optional Retirement Program~~, and any contributions accumulated under the

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4425 investment plan ~~such program~~, are not subject to assignment,
4426 execution, attachment, or any legal process, except for
4427 qualified domestic relations orders by a court of competent
4428 jurisdiction, income deduction orders as provided in s. 61.1301,
4429 and federal income tax levies.

4430 Section 22. Section 121.5911, Florida Statutes, is amended
4431 to read:

4432 121.5911 Disability retirement program; qualified status;
4433 rulemaking authority.—It is the intent of the Legislature that
4434 the disability retirement program for members ~~participants~~ of
4435 the investment plan ~~Public Employee Optional Retirement Program~~
4436 ~~as created in this act must~~ meet all applicable requirements of
4437 federal law for a qualified plan. The department ~~of Management~~
4438 ~~Services~~ shall seek a private letter ruling from the Internal
4439 Revenue Service on the disability retirement program ~~for~~
4440 ~~participants of the Public Employee Optional Retirement Program.~~
4441 Consistent with the private letter ruling, the department ~~of~~
4442 ~~Management Services~~ shall adopt ~~any necessary~~ rules necessary
4443 ~~required~~ to maintain the qualified status of the disability
4444 retirement program and the Florida Retirement System pension
4445 ~~defined benefit~~ plan.

4446 Section 23. Section 121.70, Florida Statutes, is amended
4447 to read:

4448 121.70 Legislative purpose and intent.—

4449 (1) This part provides for a uniform system for funding
4450 benefits provided under the Florida Retirement System Pension
4451 Plan ~~defined benefit program~~ established under part I of this
4452 chapter (referred to in this part as the pension plan ~~defined~~

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4453 ~~benefit program~~) and under the Florida Retirement System
4454 Investment Plan ~~Public Employee Optional Retirement Program~~
4455 established under part II of this chapter (referred to in this
4456 part as the investment plan ~~optional retirement program~~). The
4457 Legislature recognizes and declares that the Florida Retirement
4458 System is a single retirement system, consisting of two
4459 retirement plans and other nonintegrated programs. Employees and
4460 employers participating in the Florida Retirement System
4461 collectively shall be responsible for making contributions to
4462 support the benefits provided ~~afforded~~ under both plans. The
4463 employees and ~~As provided in this part,~~ employers ~~participating~~
4464 ~~in the Florida Retirement System~~ shall make contributions based
4465 upon uniform contribution rates determined as a percentage of
4466 the employee's gross monthly compensation ~~total payroll~~ for the
4467 employee's ~~each~~ class or subclass of Florida Retirement System
4468 membership, irrespective of the ~~which~~ retirement plan in which
4469 the individual employee is enrolled ~~employees may elect~~. This
4470 shall be known as a uniform or blended contribution rate system.

4471 (2) In establishing a uniform contribution rate system, it
4472 is the intent of the Legislature to:

4473 (a) Provide greater stability and certainty in financial
4474 planning and budgeting for Florida Retirement System employers
4475 by eliminating the fiscal instability that would be caused by
4476 dual rates coupled with employee-selected plan participation;

4477 (b) Provide greater fiscal equity and uniformity for
4478 system employers by effectively distributing the financial
4479 burden and benefit of short-term system deficits and surpluses,
4480 respectively, in proportion to total system payroll; and

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4481 (c) Allow employees to make their retirement plan
4482 selection decisions free of circumstances that may cause
4483 employers to favor one plan choice over another.

4484 Section 24. Section 121.71, Florida Statutes, is amended
4485 to read:

4486 121.71 Uniform rates; process; calculations; levy.—

4487 (1) In conducting the system actuarial study required
4488 under s. 121.031, the actuary shall follow all requirements
4489 specified ~~thereunder~~ to determine, by Florida Retirement System
4490 employee membership class, the dollar contribution amounts
4491 necessary for the next ~~forthcoming~~ fiscal year for the pension
4492 plan ~~defined benefit program~~. In addition, the actuary shall
4493 determine, by Florida Retirement System membership class, based
4494 on an estimate for the next ~~forthcoming~~ fiscal year of the gross
4495 compensation of employees participating in the investment plan
4496 ~~optional retirement program~~, the dollar contribution amounts
4497 necessary to make the allocations required under ss. 121.72 and
4498 121.73. For each employee membership class and subclass, the
4499 actuarial study must ~~shall~~ establish a uniform rate necessary to
4500 fund the benefit obligations under both Florida Retirement
4501 System retirement plans by dividing the sum of total dollars
4502 required by the estimated gross compensation of members in both
4503 plans.

4504 (2) Based on the uniform rates set forth in subsections
4505 ~~subsection~~ (3), (4), and (5), employees and employers shall make
4506 monthly contributions to the Division of Retirement as required
4507 in s. 121.061(1), which shall initially deposit the funds into
4508 the Florida Retirement System Contributions Clearing Trust Fund.

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A change in a contribution rate is effective the first day of the month for which a full month's employee and employer contribution may be made on or after the beginning date of the change. Beginning July 1, 2011, each employee shall contribute the contributions required in subsection (3). The employer shall deduct the contribution from the employee's monthly salary, and the contribution shall be submitted to the Division of Retirement. These contributions shall be reported as employer-paid employee contributions, and shall be credited to the account of the employee. The contributions shall be deducted from the employee's salary before the computation of applicable federal taxes and shall be treated as employer contributions under 26 U.S.C. s. 414(h) (2). The employee specifies that the contributions, although designated as employee contributions, are being paid by the employer in lieu of contributions by the employee. The employee shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the plan. Such contributions are mandatory and each employee shall be considered to consent to payroll deductions. Payment of an employee's salary or wages, less the contribution, is a full and complete discharge and satisfaction of all claims and 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:

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		<u>Percentage of Gross</u> <u>Compensation,</u> <u>Effective July 1, 2011</u>	
	<u>Membership Class</u>		
4537			
	<u>Regular Class</u>	<u>3.00%</u>	
4538			
	<u>Special Risk Class</u>	<u>3.00%</u>	
4539			
	<u>Special Risk Administrative</u> <u>Support Class</u>	<u>3.00%</u>	
4540			
	<u>Elected Officers' Class</u>	<u>3.00%</u>	
4541			
	<u>Senior Management Class</u>	<u>3.00%</u>	
4542			
	<u>DROP</u>	<u>0.00%</u>	
4543			
4544	<u>(4)</u> (3) Required employer retirement contribution rates for		
4545	each membership class and subclass of the Florida Retirement		
4546	System for both retirement plans are as follows:		
4547			
	Membership Class	Percentage of Gross Compensation, Effective July 1, <u>2011</u> 2009	Percentage of Gross Compensation, Effective July 1, <u>2012</u> 2010
4548			

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4549	Regular Class	<u>6.16%</u>	8.69%	<u>6.16%</u>	9.63%
4550	Special Risk Class	<u>16.95%</u>	19.76%	<u>16.95%</u>	22.11%
4551	Special Risk Administrative Support Class	<u>7.23%</u>	11.39%	<u>7.23%</u>	12.10%
4552	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>10.76%</u>	13.32%	<u>10.76%</u>	15.20%
4553	Elected Officers' Class— Justices, Judges	<u>15.19%</u>	18.40%	<u>15.19%</u>	20.65%
4554	Elected Officers' Class— County Elected Officers	<u>13.08%</u>	15.37%	<u>13.08%</u>	17.50%
4555	Senior Management Class	<u>8.14%</u>	11.96%	<u>8.14%</u>	13.43%
4556	DROP	<u>3.50%</u>	9.80%	<u>3.50%</u>	11.14%
4557					
4558	<u>(5) In order to address unfunded actuarial liabilities of</u>				

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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>
<u>Regular Class</u>	<u>0.25%</u>	<u>2.06%</u>
<u>Special Risk Class</u>	<u>1.17%</u>	<u>6.88%</u>
<u>Special Risk Administrative</u> <u>Support Class</u>	<u>0.59%</u>	<u>20.13%</u>
<u>Elected Officers' Class—</u> <u>Legislators, Governor,</u> <u>Lt. Governor,</u> <u>Cabinet Officers,</u> <u>State Attorneys,</u> <u>Public Defenders</u>	<u>0.51%</u>	<u>20.55%</u>
<u>Elected Officers' Class—</u>	<u>0.39%</u>	<u>12.05%</u>

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Justices, Judges

Elected Officers' Class— 0.42% 20.70%

County Elected Officers

Senior Management Class 0.05% 10.00%

DROP 0.00% 4.76%

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

(7)~~(4)~~ The state actuary shall recognize and use an appropriate level of available excess assets of the Florida Retirement System Trust Fund to offset the difference between the normal costs of the Florida Retirement System and the statutorily prescribed contribution rates.

Section 25. 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

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4592 fund retirement benefits under the investment plan ~~optional~~
4593 ~~retirement program~~ and shall be transferred monthly by the
4594 Division of Retirement from the Florida Retirement System
4595 Contributions Clearing Trust Fund to the third-party
4596 administrator for deposit in each participating employee's
4597 individual account based on the membership class of the
4598 participant.

4599 (2) The allocations are stated as a percentage of each
4600 investment plan member's ~~optional retirement program~~
4601 ~~participant's~~ gross compensation for the calendar month. A
4602 change in a contribution percentage is effective the first day
4603 of the month for which retirement contributions ~~a full month's~~
4604 ~~employer contribution~~ may be made on or after the beginning date
4605 of the change. Contribution percentages may be modified by
4606 general law.

4607 (3) Employer and employee ~~participant~~ contributions to
4608 member ~~participant~~ accounts shall be accounted for separately.
4609 ~~Participant contributions may be made only if expressly~~
4610 ~~authorized by law.~~ Interest and investment earnings on
4611 contributions shall accrue on a tax-deferred basis until
4612 proceeds are distributed.

4613 (4) Effective July 1, 2002, allocations from the Florida
4614 Retirement System Contributions Clearing Trust Fund to
4615 investment plan member ~~optional retirement program participant~~
4616 accounts shall be as follows:

4617

Membership Class	Percentage of
------------------	---------------

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	Gross Compensation
4618	
4619	
4620	Regular Class 9.00%
4621	Special Risk Class 20.00%
4622	Special Risk Administrative Support Class 11.35%
4623	Elected Officers' Class— 13.40%
	Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders
4624	Elected Officers' Class— 18.90%
	Justices, Judges
4625	Elected Officers' Class— 16.20%
	County Elected Officers
4626	Senior Management Service Class 10.95%
4627	Section 26. Section 121.73, Florida Statutes, is amended
4628	to read:
4629	121.73 Allocations for <u>member</u> optional retirement program
4630	participant disability coverage; percentage amounts.—

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

(3) Effective July 1, 2002, 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
------------------	--

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4654	Regular Class	0.25%
4655	Special Risk Class	1.33%
4656	Special Risk Administrative Support Class	0.45%
4657	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
4658	Elected Officers' Class— Justices, Judges	0.73%
4659	Elected Officers' Class— County Elected Officers	0.41%
4660	Senior Management Service Class	0.26%
4661	Section 27. Section 121.74, Florida Statutes, is amended	
4662	to read:	
4663	121.74 Administrative and educational expenses.—In	
4664	addition to contributions required under <u>ss. s. 121.71 and</u>	
4665	<u>121.73</u> , effective July 1, 2010, through June 30, 2014, employers	
4666	participating in the Florida Retirement System shall contribute	
4667	an amount equal to 0.03 percent of the payroll reported for each	
4668	class or subclass of Florida Retirement System membership. <u>+</u>	
4669	Effective July 1, 2014, the contribution rate shall be 0.04	

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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 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 28. 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 29. 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

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4698 charges to investment plan member ~~optional retirement program~~
4699 ~~participant~~ accounts. In no event may ~~shall~~ administrative and
4700 educational expenses exceed the portion of employer
4701 contributions earmarked for such expenses under this part,
4702 except for reasonable administrative charges assessed against
4703 member ~~participant~~ accounts of persons for whom no employer
4704 contributions are made during the calendar quarter. Investment
4705 management fees shall be deducted from member ~~participant~~
4706 accounts, pursuant to the terms of the contract between the
4707 provider and the board.

4708 Section 30. Section 121.78, Florida Statutes, is amended
4709 to read:

4710 121.78 Payment and distribution of contributions.—

4711 (1) Contributions made pursuant to this part shall be paid
4712 by the employer, including the employee contribution, to the
4713 Division of Retirement by electronic funds transfer no later
4714 than the 5th working day of the month immediately following the
4715 month during which the payroll period ended. Accompanying
4716 payroll data must be transmitted to the division concurrent with
4717 the contributions.

4718 (2) The division, the State Board of Administration, and
4719 the third-party administrator, as applicable, shall ensure that
4720 the contributions are distributed to the appropriate trust funds
4721 or participant accounts in a timely manner.

4722 (3) (a) Employee and employer contributions and
4723 accompanying payroll data received after the 5th working day of
4724 the month are considered late. The employer shall be assessed by
4725 the Division of Retirement a penalty of 1 percent of the

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4726 contributions due for each calendar month or part thereof that
4727 the contributions or accompanying payroll data are late.
4728 Proceeds from the 1-percent assessment against contributions
4729 made on behalf of members ~~participants~~ of the pension plan must
4730 ~~defined benefit program~~ shall be deposited in the Florida
4731 Retirement System Trust Fund, and proceeds from the 1-percent
4732 assessment against contributions made on behalf of members
4733 ~~participants~~ of the investment plan ~~optional retirement program~~
4734 shall be transferred to the third-party administrator for
4735 deposit into member ~~participant~~ accounts, as provided in
4736 paragraph (c) ~~(b)~~.

4737 (b) Retirement contributions paid for a prior period shall
4738 be charged a delinquent fee of 1 percent for each calendar month
4739 or part thereof that the contributions should have been paid.
4740 This includes prior period contributions due to incorrect wages
4741 and contributions from an earlier report or wages and
4742 contributions that should have been reported but were not. The
4743 delinquent assessments may not be waived.

4744 (c) ~~(b)~~ If employee contributions or contributions made by
4745 an employer on behalf of members ~~participants~~ of the investment
4746 plan ~~optional retirement program~~ or accompanying payroll data
4747 are not received within the calendar month they are due,
4748 including, but not limited to, contribution adjustments as a
4749 result of employer errors or corrections, and if that
4750 delinquency results in market losses to members ~~participants~~,
4751 the employer shall reimburse each member's ~~participant's~~ account
4752 for market losses resulting from the late contributions. If a
4753 member ~~participant~~ has terminated employment and taken a

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4754 distribution, the member ~~participant~~ is responsible for
4755 returning any excess contributions erroneously provided by
4756 employers, adjusted for any investment gain or loss incurred
4757 during the period such excess contributions were in the member's
4758 ~~participant's~~ account. The state board or its designated agent
4759 shall communicate to terminated members ~~participants~~ any
4760 obligation to repay such excess contribution amounts. However,
4761 the state board, its designated agents, the Florida Retirement
4762 System Investment Plan ~~Public Employee Optional Retirement~~
4763 ~~Program~~ Trust Fund, the department, or the Florida Retirement
4764 System Trust Fund may not incur any loss or gain as a result of
4765 an employer's correction of such excess contributions. The
4766 third-party administrator, hired by the state board pursuant to
4767 s. 121.4501(8), shall calculate the market losses for each
4768 affected member ~~participant~~. If contributions made on behalf of
4769 members ~~participants~~ of the investment plan ~~optional retirement~~
4770 ~~program~~ or accompanying payroll data are not received within the
4771 calendar month due, the employer shall also pay the cost of the
4772 third-party administrator's calculation and reconciliation
4773 adjustments resulting from the late contributions. The third-
4774 party administrator shall notify the employer of the results of
4775 the calculations and the total amount due from the employer for
4776 such losses and the costs of calculation and reconciliation. The
4777 employer shall remit to the Division of Retirement the amount
4778 due within 30 working days after the date of the penalty notice
4779 sent by the division. The division shall transfer that amount to
4780 the third-party administrator, which shall deposit proceeds from
4781 the 1-percent assessment and from individual market losses into

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4782 member participant accounts, as appropriate. The state board may
4783 adopt rules to administer the provisions regarding late
4784 contributions, late submission of payroll data, the process for
4785 reimbursing member participant accounts for resultant market
4786 losses, and the penalties charged to the employers.

4787 (d) If employee contributions reported by an employer on
4788 behalf of members are reduced as a result of employer errors or
4789 corrections, and the member has terminated employment and taken
4790 a refund or distribution, the employer shall be billed and is
4791 responsible for recovering from the member any excess
4792 contributions erroneously provided by the employer.

4793 (e)-(c) Delinquency fees specified in paragraph (a) may be
4794 waived by the Division of Retirement, with regard to pension
4795 plan defined benefit program contributions, and by the state
4796 board, with regard to investment plan ~~optional retirement~~
4797 ~~program~~ contributions, only if, in the opinion of the division
4798 or the board, as appropriate, exceptional circumstances beyond
4799 the employer's control prevented remittance by the prescribed
4800 due date notwithstanding the employer's good faith efforts to
4801 effect delivery. Such a waiver of delinquency may be granted an
4802 employer only once each plan ~~state fiscal~~ year.

4803 (f) If the employer submits excess employer or employee
4804 contributions, the employer shall receive a credit to be applied
4805 against future contributions owed. The employer is responsible
4806 for reimbursing the member for any excess contributions
4807 submitted if any return of such an erroneous excess pretax
4808 contribution by the program is made within 1 year after making
4809 erroneous contributions or such other period allowed under

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4810 applicable Internal Revenue guidance.

4811 (g) ~~(d)~~ If contributions made by an employer on behalf of
4812 members ~~participants~~ in the investment plan ~~optional retirement~~
4813 ~~program~~ are delayed in posting to member ~~participant~~ accounts
4814 due to acts of God beyond the control of the Division of
4815 Retirement, the state board, or the third-party administrator,
4816 as applicable, market losses resulting from the late
4817 contributions are not payable to the members ~~participants~~.

4818 Section 31. (1) Effective upon this act becoming a law,
4819 the State Board of Administration and the Department of
4820 Management Services shall request, as soon as practicable, a
4821 determination letter and private letter ruling from the United
4822 States Internal Revenue Service. If the United States Internal
4823 Revenue Service refuses to act upon a request for a private
4824 letter ruling, then a legal opinion from a qualified tax
4825 attorney or firm may be substituted for such private letter
4826 ruling.

4827 (2) If the board or the department receives notification
4828 from the United States Internal Revenue Service that this act or
4829 any portion of this act will cause the Florida Retirement
4830 System, or a portion thereof, to be disqualified for tax
4831 purposes under the Internal Revenue Code, then the portion that
4832 will cause the disqualification does not apply. Upon such
4833 notice, the state board and the department shall notify the
4834 presiding officers of the Legislature.

4835 Section 32. The Legislature finds that a proper and
4836 legitimate state purpose is served when employees and retirees
4837 of the state and its political subdivisions, and the dependents,

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4838 survivors, and beneficiaries of such employees and retirees, are
4839 extended the basic protections afforded by governmental
4840 retirement systems. These persons must be provided benefits that
4841 are fair and adequate and that are managed, administered, and
4842 funded in an actuarially sound manner, as required by s. 14,
4843 Article X of the State Constitution and part VII of chapter 112,
4844 Florida Statutes. Therefore, the Legislature determines and
4845 declares that this act fulfills an important state interest.

4846 Section 33. For the 2011-2012 fiscal year, the sums of
4847 \$207,070 of recurring funds and \$31,184 of nonrecurring funds
4848 from the Florida Retirement System Operating Trust Fund are
4849 appropriated to, and four full-time equivalent positions are
4850 authorized for, the Division of Retirement within the Department
4851 of Management Services for the purpose of implementing this act.

4852 Section 34. Except as otherwise expressly provided in this
4853 act, this act shall take effect July 1, 2011.