

1 A bill to be entitled
 2 An act relating to state retirement programs; amending s.
 3 121.051, F.S.; revising conditions for membership in the
 4 State Community College System Optional Retirement
 5 Program; amending s. 121.35, F.S.; revising conditions for
 6 membership in the State University System Optional
 7 Retirement Program; authorizing transfer of funds for
 8 specified earned credit between the Florida Retirement
 9 System and such optional retirement program; authorizing a
 10 transfer of membership between the State University System
 11 Optional Retirement Program and the Florida Retirement
 12 System; amending s. 121.4501, F.S.; redefining the term
 13 "eligible employee" for purposes of the Public Employee
 14 Optional Retirement Program; revising conditions for
 15 participation in the Public Employee Optional Retirement
 16 Program; providing an effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Paragraph (c) of subsection (2) of section
 21 121.051, Florida Statutes, is amended to read:

22 121.051 Participation in the system.--

23 (2) OPTIONAL PARTICIPATION.--

24 (c) Employees of public community colleges or charter
 25 technical career centers sponsored by public community colleges,
 26 as designated in s. 1000.21(3), who are members of the Regular
 27 Class of the Florida Retirement System and who comply with the
 28 criteria set forth in this paragraph and in s. 1012.875 may
 29 elect, in lieu of participating in the Florida Retirement System,

30 | to withdraw from the Florida Retirement System altogether and
31 | participate in an optional retirement program provided by the
32 | employing agency under s. 1012.875, to be known as the State
33 | Community College System Optional Retirement Program. Pursuant
34 | thereto:

35 | 1. Through June 30, 2001, the cost to the employer for such
36 | annuity shall equal the normal cost portion of the employer
37 | retirement contribution which would be required if the employee
38 | were a member of the Regular Class defined benefit program, plus
39 | the portion of the contribution rate required by s. 112.363(8)
40 | that would otherwise be assigned to the Retiree Health Insurance
41 | Subsidy Trust Fund. Effective July 1, 2001, each employer shall
42 | contribute on behalf of each participant in the optional program
43 | an amount equal to 10.43 percent of the participant's gross
44 | monthly compensation. The employer shall deduct an amount to
45 | provide for the administration of the optional retirement
46 | program. The employer providing the optional program shall
47 | contribute an additional amount to the Florida Retirement System
48 | Trust Fund equal to the unfunded actuarial accrued liability
49 | portion of the Regular Class contribution rate.

50 | 2. The decision to participate in such an optional
51 | retirement program shall be irrevocable for as long as the
52 | employee holds a position eligible for participation, except as
53 | provided in subparagraph 3. Any service creditable under the
54 | Florida Retirement System shall be retained after the member
55 | withdraws from the Florida Retirement System; however, additional
56 | service credit in the Florida Retirement System shall not be
57 | earned while a member of the optional retirement program.

58 | 3. An employee who has elected to participate in the

59 | optional retirement program shall have one opportunity, at the
 60 | employee's discretion, to choose to transfer from the optional
 61 | retirement program to the defined benefit program of the Florida
 62 | Retirement System or to the Public Employee Optional Retirement
 63 | Program, subject to the terms of the applicable optional
 64 | retirement program contracts.

65 | a. If the employee chooses to move to the Public Employee
 66 | Optional Retirement Program, any contributions, interest, and
 67 | earnings creditable to the employee under the State Community
 68 | College System Optional Retirement Program shall be retained by
 69 | the employee in the State Community College System Optional
 70 | Retirement Program, and the applicable provisions of s.
 71 | 121.4501(4) shall govern the election.

72 | b. If the employee chooses to move to the defined benefit
 73 | program of the Florida Retirement System, the employee shall
 74 | receive service credit equal to his or her years of service under
 75 | the State Community College Optional Retirement Program.

76 | (I) The cost for such credit shall be an amount
 77 | representing the present value of that employee's accumulated
 78 | benefit obligation for the affected period of service. The cost
 79 | shall be calculated as if the benefit commencement occurs on the
 80 | first date the employee would become eligible for unreduced
 81 | benefits, using the discount rate and other relevant actuarial
 82 | assumptions that were used to value the Florida Retirement System
 83 | defined benefit plan liabilities in the most recent actuarial
 84 | valuation. The calculation shall include any service already
 85 | maintained under the defined benefit plan in addition to the
 86 | years under the State Community College Optional Retirement
 87 | Program. The present value of any service already maintained

88 | under the defined benefit plan shall be applied as a credit to
 89 | total cost resulting from the calculation. The division shall
 90 | ensure that the transfer sum is prepared using a formula and
 91 | methodology certified by an enrolled actuary.

92 | (II) The employee must transfer from his or her State
 93 | Community College System Optional Retirement Program account and
 94 | from other employee moneys as necessary, a sum representing the
 95 | present value of that employee's accumulated benefit obligation
 96 | immediately following the time of such movement, determined
 97 | assuming that attained service equals the sum of service in the
 98 | defined benefit program and service in the State Community
 99 | College System Optional Retirement Program.

100 | 4. Participation in the optional retirement program shall
 101 | be limited to those employees who satisfy the following
 102 | eligibility criteria:

103 | a. The employee must be otherwise eligible for membership
 104 | or renewed membership in the Regular Class of the Florida
 105 | Retirement System, as provided in s. 121.021(11) and (12) or s.
 106 | 121.122.

107 | b. The employee must be employed in a full-time position
 108 | classified in the Accounting Manual for Florida's Public
 109 | Community Colleges as:

110 | (I) Instructional; or

111 | (II) Executive Management, Instructional Management, or
 112 | Institutional Management, if a community college determines that
 113 | recruiting to fill a vacancy in the position is to be conducted
 114 | in the national or regional market, and:

115 | (A) The duties and responsibilities of the position include
 116 | either the formulation, interpretation, or implementation of

117 policies; or

118 (B) The duties and responsibilities of the position include
119 the performance of functions that are unique or specialized
120 within higher education and that frequently involve the support
121 of the mission of the community college.

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

125 5. Participants in the program are subject to the same
126 reemployment limitations, renewed membership provisions, and
127 forfeiture provisions as are applicable to regular members of the
128 Florida Retirement System under ss. 121.091(9), 121.122, and
129 121.091(5), respectively.

130 6. Eligible community college employees shall be compulsory
131 members of the Florida Retirement System until, pursuant to the
132 procedures set forth in s. 1012.875, a written election to
133 withdraw from the Florida Retirement System and to participate in
134 the State Community College Optional Retirement Program is filed
135 with the program administrator and received by the division.

136 a. Any community college employee whose program eligibility
137 results from initial employment shall be enrolled in the State
138 Community College Optional Retirement Program retroactive to the
139 first day of eligible employment. The employer retirement
140 contributions paid through the month of the employee plan change
141 shall be transferred to the community college for the employee's
142 optional program account, and, effective the first day of the
143 next month, the employer shall pay the applicable contributions
144 based upon subparagraph 1.

145 b. Any community college employee whose program eligibility

146 results from a change in status due to the subsequent designation
147 of the employee's position as one of those specified in
148 subparagraph 4. or due to the employee's appointment, promotion,
149 transfer, or reclassification to a position specified in
150 subparagraph 4. shall be enrolled in the program upon the first
151 day of the first full calendar month that such change in status
152 becomes effective. The employer retirement contributions paid
153 from the effective date through the month of the employee plan
154 change shall be transferred to the community college for the
155 employee's optional program account, and, effective the first day
156 of the next month, the employer shall pay the applicable
157 contributions based upon subparagraph 1.

158 7. Effective July 1, 2003, through December 31, 2008, any
159 participant of the State Community College Optional Retirement
160 Program who has service credit in the defined benefit plan of the
161 Florida Retirement System for the period between his or her first
162 eligibility to transfer from the defined benefit plan to the
163 optional retirement program and the actual date of transfer may,
164 during his or her employment, elect to transfer to the optional
165 retirement program a sum representing the present value of the
166 accumulated benefit obligation under the defined benefit
167 retirement program for such period of service credit. Upon such
168 transfer, all such service credit previously earned under the
169 defined benefit program of the Florida Retirement System during
170 this period shall be nullified for purposes of entitlement to a
171 future benefit under the defined benefit program of the Florida
172 Retirement System.

173 Section 2. Paragraph (a) of subsection (2) and paragraphs
174 (e) and (g) of subsection (3) of section 121.35, Florida

175 Statutes, are amended, and paragraph (i) is added to subsection
 176 (3), to read:

177 121.35 Optional retirement program for the State University
 178 System.--

179 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.--

180 (a) Participation in the optional retirement program
 181 provided by this section shall be limited to persons who are
 182 otherwise eligible for membership or renewed membership in the
 183 Florida Retirement System and who are employed in one of the
 184 following State University System positions:

185 1. Positions classified as instructional and research
 186 faculty which are exempt from the career service under the
 187 provisions of s. 110.205(2)(d).

188 2. Positions classified as administrative and professional
 189 which are exempt from the career service under the provisions of
 190 s. 110.205(2)(d).

191 3. The Chancellor and the university presidents.

192 (3) ELECTION OF OPTIONAL PROGRAM.--

193 (e) The election by an eligible employee to participate in
 194 the optional retirement program shall be irrevocable for so long
 195 as the employee continues to meet the eligibility requirements
 196 specified in subsection (2), except as provided in paragraph (h)
 197 or paragraph (i). In the event that an employee participates in
 198 the optional retirement program for 90 days or more and is
 199 subsequently employed in an administrative or professional
 200 position which has been determined by the department, under
 201 subparagraph (2)(a)2., to be not otherwise eligible for
 202 participation in the optional retirement program, the employee
 203 shall continue participation in the optional program so long as

204 the employee meets the other eligibility requirements for the
 205 program, except as provided in paragraph (h) or paragraph (i).

206 (g) An eligible employee who is a member of the Florida
 207 Retirement System at the time of election to participate in the
 208 optional retirement program shall retain all retirement service
 209 credit earned under the Florida Retirement System, at the rate
 210 earned. No additional service credit in the Florida Retirement
 211 System shall be earned while the employee participates in the
 212 optional program, nor shall the employee be eligible for
 213 disability retirement under the Florida Retirement System. An
 214 eligible employee may transfer from the Florida Retirement System
 215 to his or her accounts under the State University System Optional
 216 Retirement Program a sum representing the present value of the
 217 employee's accumulated benefit obligation under the defined
 218 benefit program of the Florida Retirement System for any service
 219 credit accrued from the employee's first eligible transfer date
 220 to the optional retirement program through the actual date of
 221 such transfer, if such service credit was earned in the period
 222 from July 1, 1984, through December 31, 1992. The present value
 223 of the employee's accumulated benefit obligation shall be
 224 calculated as described in s. 121.4501(3)(c)2. Upon such
 225 transfer, all such service credit previously earned under the
 226 defined benefit program of the Florida Retirement System during
 227 this period shall be nullified for purposes of entitlement to a
 228 future benefit under the defined benefit program of the Florida
 229 Retirement System.

230 (i) Effective January 1, 2008, through December 31, 2008,
 231 except for an employee who is a mandatory participant of the
 232 State University System Optional Retirement Program, an employee

233 who has elected to participate in the State University System
234 Optional Retirement Program shall have one opportunity, at the
235 employee's discretion, to choose to transfer from this program to
236 the defined benefit program of the Florida Retirement System or
237 to the Public Employee Optional Retirement Program, subject to
238 the terms of the applicable contracts of the State University
239 System Optional Retirement Program.

240 1. If the employee chooses to move to the Public Employee
241 Optional Retirement Program, any contributions, interest, and
242 earnings creditable to the employee under the State University
243 System Optional Retirement Program shall be retained by the
244 employee in the State University System Optional Retirement
245 Program, and the applicable provisions of s. 121.4501(4) shall
246 govern the election.

247 2. If the employee chooses to move to the defined benefit
248 program of the Florida Retirement System, the employee shall
249 receive service credit equal to his or her years of service under
250 the State University System Optional Retirement Program.

251 a. The cost for such credit shall be an amount representing
252 the actuarial accrued liability for the affected period of
253 service. The cost shall be calculated using the discount rate and
254 other relevant actuarial assumptions that were used to value the
255 Florida Retirement System defined benefit plan liabilities in the
256 most recent actuarial valuation. The calculation shall include
257 any service already maintained under the defined benefit plan in
258 addition to the years under the State University System Optional
259 Retirement Program. The actuarial accrued liability of any
260 service already maintained under the defined benefit plan shall
261 be applied as a credit to total cost resulting from the

262 calculation. The division shall ensure that the transfer sum is
 263 prepared using a formula and methodology certified by an enrolled
 264 actuary.

265 b. The employee must transfer from his or her State
 266 University System Optional Retirement Program account, and from
 267 other employee moneys as necessary, a sum representing the
 268 actuarial accrued liability immediately following the time of
 269 such movement, determined assuming that attained service equals
 270 the sum of service in the defined benefit program and service in
 271 the State University System Optional Retirement Program.

272 Section 3. Paragraph (f) of subsection (2) and paragraph
 273 (a) of subsection (4) of section 121.4501, Florida Statutes, are
 274 amended to read:

275 121.4501 Public Employee Optional Retirement Program.--

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

277 (f) "Eligible employee" means an officer or employee, as
 278 defined in s. 121.021(11), who:

279 1. Is a member of, or is eligible for membership in, the
 280 Florida Retirement System, including any renewed member of the
 281 Florida Retirement System; or

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

286 ~~3. Is eligible to participate in, but does not participate~~
 287 ~~in,~~ the State University System Optional Retirement Program
 288 established under s. 121.35.

289
 290 The term does not include any member participating in the

291 Deferred Retirement Option Program established under s.
 292 121.091(13) or a mandatory participant of the State University
 293 System Optional Retirement Program ~~or any employee participating~~
 294 ~~in an optional retirement program~~ established under s. 121.35.

295 (4) PARTICIPATION; ENROLLMENT.--

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

299 a. Any such employee may elect to participate in the Public
 300 Employee Optional Retirement Program in lieu of retaining his or
 301 her membership in the defined benefit program of the Florida
 302 Retirement System. The election must be made in writing or by
 303 electronic means and must be filed with the third-party
 304 administrator by August 31, 2002, or, in the case of an active
 305 employee who is on a leave of absence on April 1, 2002, by the
 306 last business day of the 5th month following the month the leave
 307 of absence concludes. This election is irrevocable, except as
 308 provided in paragraph (e). Upon making such election, the
 309 employee shall be enrolled as a participant of the Public
 310 Employee Optional Retirement Program, the employee's membership
 311 in the Florida Retirement System shall be governed by the
 312 provisions of this part, and the employee's membership in the
 313 defined benefit program of the Florida Retirement System shall
 314 terminate. The employee's enrollment in the Public Employee
 315 Optional Retirement Program shall be effective the first day of
 316 the month for which a full month's employer contribution is made
 317 to the optional program.

318 b. Any such employee who fails to elect to participate in
 319 the Public Employee Optional Retirement Program within the

320 prescribed time period is deemed to have elected to retain
 321 membership in the defined benefit program of the Florida
 322 Retirement System, and the employee's option to elect to
 323 participate in the optional program is forfeited.

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

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

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

345 c. Any such employee who fails to elect to participate in
 346 the Public Employee Optional Retirement Program within the
 347 prescribed time period is deemed to have elected to retain
 348 membership in the defined benefit program of the Florida

349 Retirement System, and the employee's option to elect to
350 participate in the optional program is forfeited.

351 3. With respect to employees who become eligible to
352 participate in the Public Employee Optional Retirement Program
353 pursuant to s. 121.051(2)(c)3. or s. 121.35(3)(i), any such
354 employee may elect to participate in the Public Employee Optional
355 Retirement Program in lieu of retaining his or her participation
356 in the State Community College Optional Retirement Program or the
357 State University System Optional Retirement Program. The election
358 must be made in writing or by electronic means and must be filed
359 with the third-party administrator. This election is irrevocable,
360 except as provided in paragraph (e). Upon making such election,
361 the employee shall be enrolled as a participant of the Public
362 Employee Optional Retirement Program, the employee's membership
363 in the Florida Retirement System shall be governed by the
364 provisions of this part, and the employee's participation in the
365 State Community College Optional Retirement Program or the State
366 University System Optional Retirement Program shall terminate.
367 The employee's enrollment in the Public Employee Optional
368 Retirement Program shall be effective the first day of the month
369 for which a full month's employer contribution is made to the
370 optional program.

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

376 Section 4. This act shall take effect July 1, 2007.