



Government Operations Subcommittee

Wednesday, February 23, 2011

1:00 PM

Webster Hall (212 Knott)

**Dean Cannon
Speaker**

**Jimmy Patronis
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Government Operations Subcommittee

Start Date and Time: Wednesday, February 23, 2011 01:00 pm

End Date and Time: Wednesday, February 23, 2011 04:00 pm

Location: Webster Hall (212 Knott)

Duration: 3.00 hrs

Governor's Recommendation on Pension Reform

- Overview provided by staff of the Governor's office
- Public testimony

NOTICE FINALIZED on 02/16/2011 16:01 by Love.John

Governor's Recommendations on Pension Reform

**Presentation to the Florida House of Representatives
Government Operations Subcommittee
February 23, 2011**



7 Steps. 700,000 Jobs. 7 Years. — Let's Get to Work.

Structural Changes to the Florida Retirement System

- Implement contributory system with employees contributing 5 percent of gross salary to the Florida Retirement System, effective July 1, 2011.
 - Pretax Basis
 - Immediately vested in employee contributions
 - Employee contributions are fully refundable to the employee when the employee terminates from the FRS.
- Implement compulsory enrollment in defined contribution investment plan for all new Florida Retirement System members, effective July 1, 2011.



Changes to FRS Pension Plan

- Revises the service accrual rates for service earned after July 1, 2011:
 - 2.0 percent for Special Risk Class members
 - 1.6 percent for all other classes (Regular, Senior Management Service, and Elected Officers)
- Closes the Deferred Retirement Option Program (DROP) to new participation, effective July 1, 2011.
- Eliminates the cost of living adjustment (COLA) on retirement benefits for all service earned after July 1, 2011.
- Reduces Minimum Disability Retirement Benefits
 - Special Risk minimum in-line-of-duty disability is reduced from 65% to 50%
 - Minimum disability retirement benefits for judges retiring as disabled pursuant to the Constitution are reduced from two-thirds of salary to one-third of salary.



Changes to FRS Investment Plan

- Retirement contributions into participant accounts will be 11.25 percent for Special Risk Class members
- Retirement contributions into participant accounts will be 9 percent for all other members
- Disability retirement program continues as currently structured (election to move back to pension plan). The state actuary will determine the level of contributions necessary to fund this benefit.



Retiree Health Insurance Subsidy (HIS)

- No new service may be earned after July 1, 2011. Current retirees are unaffected (continue to receive the same level of HIS). Current FRS members will no longer earn additional credits but will retain service credits earned prior to July 1, 2011.



Optional Retirement Plans

- The State University Optional Retirement Plan (SUSORP), the Community College Optional Retirement Plan (CCORP), and the Senior Management Optional Annuity Plan (SMSOAP), will be closed as of July 1, 2011.

Note: Participants in these plans will become compulsory members of the FRS investment plan (like all other new FRS enrollees). This means that these employees will begin contributing 5% of salary (like everyone else) and receiving 9% retirement contributions into the investment accounts (rather than the current 10.43% for ORP and 12.49% for OAP). Current participants will maintain their current optional retirement accounts.



**Governor's Recommendation
on Pension Reform**

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1 A bill to be entitled
2 An act relating to retirement; amending s. 121.021,
3 F.S.; redefining the terms "system", "member",
4 "special risk member", "prior service," "termination,"
5 "benefit," and "payee"; amending s. 121.051, F.S.;
6 requiring that a local governmental entity or the
7 governing body of a charter school or charter
8 technical career center make certain elections
9 regarding benefits at the time the entity or governing
10 body joins the Florida Retirement System; closing the
11 State Community College System Optional Retirement
12 Program; enrolling current participants in such
13 program in the Florida Retirement System Investment
14 Plan; providing that all new enrollees of the Florida
15 Retirement System are compulsory members of the
16 investment plan; providing that employer-paid employee
17 contributions are subject to certain taxes; amending
18 s. 121.0515, F.S.; providing procedures for
19 designation and removal of designation of special risk
20 class; closing the special risk administrative support
21 class; providing for employee contributions to be
22 used, if applicable, when purchasing credit for past
23 service; amending s. 121.052, F.S., relating to the
24 membership class of elected officers; conforming
25 provisions to changes made by the act; requiring
26 member contributions; providing for a refund of
27 contributions under certain circumstances for an

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28 officer who leaves office; providing that a member who
29 obtains a refund of contributions waives certain
30 rights under the Florida Retirement System; reducing
31 the accrual value to 1.6 percent for each year of
32 service earned after July 1, 2011; amending s.
33 121.053, F.S.; clarifying the employer contributions
34 required for a member in the Elected Officers' Class
35 who participates in the Deferred Retirement Option
36 Program; amending s. 121.055, F.S., relating to the
37 Senior Management Service Class; conforming provisions
38 to changes made by the act; requiring employee
39 contributions; providing for a refund of contributions
40 under certain circumstances for a member who
41 terminates employment; providing that a member who
42 obtains a refund of contributions waives certain
43 rights under the Florida Retirement System; reducing
44 the accrual value to 1.6 percent for each year of
45 service earned after July 1, 2011; closing the Senior
46 Management Service Optional Annuity Program; enrolling
47 current participants in such program in the Florida
48 Retirement System Investment Plan; limiting the
49 payment of benefits prior to a participant's
50 termination of employment; amending s. 121.071, F.S.;
51 requiring employee and employer contributions to the
52 retirement system effective July 1, 2011; providing
53 for a refund of contributions under certain
54 circumstances following termination of employment;

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55 prohibiting such refund if an approved qualified
56 domestic relations order is filed against the
57 participant's retirement account; requiring repayment
58 plus interest of an invalid refund; amending s.
59 121.081, F.S.; providing requirements for
60 contributions for prior service performed on or after
61 July 1, 2011; amending s. 121.091, F.S.; setting the
62 annual service accrual rates for the classes for
63 service earned after July 1, 2011; reducing the
64 minimum in-line-of-duty disability retirement benefit
65 to 50 percent of the average monthly compensation;
66 reducing the minimum disability retirement for certain
67 judges to one-third of the monthly compensation at the
68 time of disability; providing for the refund of
69 accumulated contributions if a member's employment is
70 terminated for any reason other than death or
71 retirement; closing the Deferred Optional Retirement
72 Program to new participants on July 1, 2011; amending
73 s. 121.101, F.S.; providing a calculation for cost of
74 living adjustments for service earned after July 1,
75 2011; amending s. 121.121, F.S., relating to the
76 purchase of creditable service following an authorized
77 leave of absence; requiring that service credit be
78 purchased at the employee and employer contribution
79 rates in effect during the leave of absence; amending
80 s. 121.125, F.S.; requiring that the employer make the
81 required employee and employer retirement

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82 | contributions following an employee's workers'
83 | compensation injury or illness; requiring that a
84 | penalty be assessed against an employer that fails to
85 | pay the required contributions; amending s. 121.35,
86 | F.S., relating to the optional retirement program for
87 | the State University System; closing the optional
88 | retirement program; enrolling current participants in
89 | such program in the Florida Retirement System
90 | Investment Plan; deleting certain requirements
91 | governing employer contributions to conform to changes
92 | made by the act; limiting the payment of benefits
93 | prior to a participant's termination of employment;
94 | amending s. 121.4501, F.S.; requiring members of the
95 | Florida Retirement System make certain contributions
96 | to the program trust fund based on the employee's
97 | membership class; redefining the term "retiree" and
98 | defining the terms "participant contributions" and
99 | "pension plan"; providing for contribution adjustments
100 | as a result of errors or corrections; requiring an
101 | employer to receive a credit for excess contributions
102 | and to reimburse an employee for excess contributions,
103 | subject to certain limitations; providing for a
104 | participant to retain his or her prior plan choice
105 | following a return to employment; excluding certain
106 | retirees from renewed membership in the Florida
107 | Retirement System; requiring new employees initially
108 | enrolled in the Florida Retirement System to be

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109 compulsory members of the investment plan; limiting
110 certain refunds of contributions which exceed the
111 amount that would have accrued had the member remained
112 in the defined benefit program; providing certain
113 requirements and limitations with respect to
114 contributions; clarifying that participant and
115 employer contributions are earmarked for specified
116 purposes; providing duties of the third-party
117 administrator; providing that a participant is vested
118 immediately with respect to employee contributions
119 paid by the participant; providing for the forfeiture
120 of nonvested employer contributions and service credit
121 under certain circumstances; amending s. 121.4502,
122 F.S.; changing the name of the Public Employee
123 Optional Retirement Program Trust Fund to the Florida
124 Retirement System Investment Plan Trust Fund; amending
125 s. 121.4503, F.S.; providing for the deposit of
126 participant contributions into the Florida Retirement
127 System Contributions Clearing Trust Fund; amending s.
128 121.571, F.S.; providing requirements for submitting
129 employee contributions; amending s. 121.591, F.S.;
130 limiting the payment of benefits prior to a
131 participant's termination of employment; providing for
132 the forfeiture of nonvested accumulations upon payment
133 of certain vested benefits; providing that the
134 distribution payment method selected by the
135 participant or beneficiary is irrevocable at the time

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136 of distribution; prohibiting a distribution of
137 employee contributions if an qualified domestic
138 relations order is filed against the participant's
139 account; amending s. 121.5911, F.S.; making conforming
140 changes consistent with this act; amending s. 121.70,
141 F.S.; revising legislative intent; amending s. 121.71,
142 F.S.; requiring that employee contributions be
143 deducted from the employee's monthly salary, beginning
144 on a specified date, and treated as employer
145 contributions under certain provisions of federal law;
146 clarifying that an employee may not receive such
147 contributions directly; specifying the required
148 employee contribution rates for the membership of each
149 membership class and subclass of the Florida
150 Retirement System; specifying the required employer
151 retirement contribution rates for each membership
152 class and subclass of the system in order to address
153 unfunded actuarial liabilities of the system;
154 requiring an assessment to be imposed if the employee
155 contributions remitted are less than the amount
156 required; providing for the employer to receive a
157 credit for excess contributions remitted; amending s.
158 121.72, F.S.; revising certain requirements governing
159 allocations to optional retirement program participant
160 accounts; setting the allocation into retirement
161 accounts at 11.25 percent for special risk class
162 members and 9 percent for all other members; amending

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163 s. 121.73, F.S., relating to disability coverage for
164 participants in the optional retirement program;
165 conforming provisions to changes made by the act;
166 amending s. 121.74, F.S.; revising the amount that
167 employers are required to contribute for
168 administrative and educational expenses; amending s.
169 121.75, F.S.; making conforming changes; amending s.
170 121.76, F.S.; providing that employer-paid employee
171 contributions are subject to certain taxes; amending
172 s. 121.78, F.S.; making conforming changes; amending
173 s. 121.78, F.S.; revising certain requirements for
174 administering the payment and distribution of
175 contributions; requiring that certain fees be imposed
176 for delinquent payment; providing that an employer is
177 responsible for recovering any refund provided to an
178 employee in error; revising the terms of an authorized
179 waiver of delinquency; requiring an employer to
180 receive a credit for excess contributions and to
181 reimburse an employee for excess contributions,
182 subject to certain limitations; amending s. 1012.875,
183 F.S.; closing the State Community College System
184 Optional Retirement Program; enrolling current
185 participants in such program in the Florida Retirement
186 System Investment Plan; providing that the act
187 fulfills an important state interest; providing
188 appropriations to and authorizing additional positions
189 for the Division of Retirement within the Department

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190 of Management Services; amending s. 110.123, F.S.;

191 making conforming changes; amending s. 112.0801, F.S.;

192 making conforming changes; amending s. 112.363, F.S.;

193 providing that no additional service credit for the

194 health insurance subsidy can be earned after July 1,

195 2011; amending s. 112.65, F.S.; making conforming

196 changes; amending s. 212.20, F.S.; reducing local

197 government revenue sharing based on savings from

198 pension reform; reenacting s. 121.161, F.S., relating

199 to the references of other laws as amended; providing

200 an appropriation; requiring the State Board of

201 Administration and the Department of Management

202 Services to request determination letter or private

203 letter ruling from the Internal Revenue Service;

204 providing effective dates.

205

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

207

208 Section 1. Subsections (3), (12), and (15), paragraph (a)

209 of subsection (19), paragraph (b) of subsection (22) and

210 subsections (39), (55), and (59) of section 121.021, Florida

211 Statutes, are amended to read:

212 121.021 Definitions.—The following words and phrases as

213 used in this chapter have the respective meanings set forth

214 unless a different meaning is plainly required by the context:

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

216 established by this chapter to be known and cited as the

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217 "Florida Retirement System," including, but not limited to, the
218 defined benefit ~~retirement~~ program administered under the
219 ~~provisions of part I of this part,~~ referred to as the "Florida
220 Retirement System Pension Plan" or "Pension Plan" ~~chapter~~ and
221 the defined contribution ~~retirement~~ program ~~known as the Public~~
222 ~~Employee Optional Retirement Program and~~ administered under the
223 ~~provisions of part II of this chapter,~~ referred to as the
224 "Florida Retirement System Investment Plan" or "Investment
225 Plan".

226 (12) "Member" means any officer or employee who is covered
227 or who becomes covered under this system in accordance with this
228 chapter. On and after December 1, 1970, through June 30, 2011,
229 all new members and those members transferring from existing
230 systems shall be divided into the following classes: "Special
231 Risk Class," as provided in s. 121.0515(3)~~(2)~~; "Special Risk
232 Administrative Support Class," as provided in s. 121.0515(8)~~(7)~~;
233 "Elected Officers' Class," as provided in s. 121.052; "Senior
234 Management Service Class," as provided in s. 121.055; and
235 "Regular Class," which consists of all members who are not in
236 the Special Risk Class, Special Risk Administrative Support
237 Class, Elected Officers' Class, or Senior Management Service
238 Class. Effective July 1, 2011, all members shall be divided into
239 the following classes: "Special Risk Class," as provided in s.
240 121.0515(3); "Elected Officers' Class," as provided in s.
241 121.052; "Senior Management Service Class," as provided in s.
242 121.055; and "Regular Class," which consists of all members who
243 are not in the Special Risk Class, Elected Officers' Class, or

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244 Senior Management Service Class.

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

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

260 ~~(b) Effective October 1, 1978, "special risk member" means~~
261 ~~a member of the Florida Retirement System who is designated as a~~
262 ~~special risk member by the division in accordance with s.~~
263 ~~121.0515. Such member must be employed as a law enforcement~~
264 ~~officer, a firefighter, or a correctional officer and must meet~~
265 ~~certain other special criteria as set forth in s. 121.0515.~~

266 ~~(c) Effective October 1, 1999, "special risk member" means~~
267 ~~a member of the Florida Retirement System who is designated as a~~
268 ~~special risk member by the division in accordance with s.~~
269 ~~121.0515. Such member must be employed as a law enforcement~~
270 ~~officer, a firefighter, a correctional officer, an emergency~~

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271 ~~medical technician, or a paramedic and must meet certain other~~
272 ~~special criteria as set forth in s. 121.0515.~~

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

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

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

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

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

290 (a) Service for which the member had credit under one of
291 the existing systems and received a refund of his or her
292 contributions upon termination of employment. Prior service
293 shall also include that service ~~between December 1, 1970, and~~
294 ~~the date the system becomes noncontributory~~ for which the member
295 had credit under the Florida Retirement System and received a
296 refund of his or her contributions upon termination of
297 employment.

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

301 (b) ~~Under no circumstances shall~~ Compensation for a member
302 participating in the pension plan ~~defined benefit retirement~~
303 ~~program~~ or the investment plan ~~Public Employee Optional~~
304 ~~Retirement Program~~ of the Florida Retirement System may not
305 include:

306 1. Fees paid professional persons for special or particular
307 services or ~~include~~ salary payments made from a faculty practice
308 plan authorized by the Board of Governors of the State
309 University System for eligible clinical faculty at a college in
310 a state university that has a faculty practice plan; or

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

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

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

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325 require other evidence of termination as it deems necessary.

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

335 (b) "Termination" for a member electing to participate in
336 the Deferred Retirement Option Program occurs when the program
337 participant ceases all employment relationships with
338 participating employers ~~an employer~~ in accordance with s.
339 121.091(13), however:

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

345 2. For termination dates occurring on or after July 1,
346 2010, if the participant becomes employed by any such employer
347 within the next 6 calendar months, termination will be deemed
348 not to have occurred, except as provided in s.
349 121.091(13)(b)4.c. A leave of absence constitutes a continuation
350 of the employment relationship.

351 (c) Effective July 1, 2011, "termination" for a member

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352 receiving a refund of employee contributions occurs when a
353 member ceases all employment relationships with participating
354 employers for 3 calendar months. A leave of absence constitutes
355 a continuation of the employment relationship.

356 (38) "Continuous service" means creditable service as a
357 member, beginning with the first day of employment with an
358 employer covered under a state-administered retirement system
359 consolidated herein and continuing for as long as the member
360 remains in an employer-employee relationship with an employer
361 covered under this chapter. An absence of 1 calendar month or
362 more from an employer's payroll shall be considered a break in
363 continuous service, except for periods of absence during which
364 an employer-employee relationship continues to exist and such
365 period of absence is creditable under this chapter or under one
366 of the existing systems consolidated herein. However, a law
367 enforcement officer as defined in s. 121.0515(3)~~(2)~~(a) who was a
368 member of a state-administered retirement system under chapter
369 122 or chapter 321 and who resigned and was subsequently
370 reemployed in a law enforcement position within 12 calendar
371 months of such resignation by an employer under such state-
372 administered retirement system shall be deemed to have not
373 experienced a break in service. Further, with respect to a
374 state-employed law enforcement officer who meets the criteria
375 specified in s. 121.0515(3)~~(2)~~(a), if the absence from the
376 employer's payroll is the result of a "layoff" as defined in s.
377 110.107 or a resignation to run for an elected office that meets
378 the criteria specified in s. 121.0515(3)~~(2)~~(a), no break in

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379 continuous service shall be deemed to have occurred if the
380 member is reemployed as a state law enforcement officer or is
381 elected to an office which meets the criteria specified in s.
382 121.0515(3)~~(2)~~(a) within 12 calendar months after the date of
383 the layoff or resignation, notwithstanding the fact that such
384 period of layoff or resignation is not creditable service under
385 this chapter. A withdrawal of contributions will constitute a
386 break in service. Continuous service also includes past service
387 purchased under this chapter, provided such service is
388 continuous within this definition and the rules established by
389 the administrator. The administrator may establish
390 administrative rules and procedures for applying this definition
391 to creditable service authorized under this chapter. Any
392 correctional officer, as defined in s. 943.10, whose
393 participation in the state-administered retirement system is
394 terminated due to the transfer of a county detention facility
395 through a contractual agreement with a private entity pursuant
396 to s. 951.062, shall be deemed an employee with continuous
397 service in the Special Risk Class, provided return to employment
398 with the former employer takes place within 3 years due to
399 contract termination or the officer is employed by a covered
400 employer in a special risk position within 1 year after his or
401 her initial termination of employment by such transfer of its
402 detention facilities to the private entity.

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

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406 if applicable.

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

409 Section 2. Paragraphs (b), (c), and (d) of subsection (2)
410 and subsection (3) of section 121.051, Florida Statutes, are
411 amended, a new subsection (3) is added to said section and
412 current subsections (4) through (9) are renumbered as
413 subsections (5) through (10), respectively, to read:

414 121.051 Participation in the system.—

415 (2) OPTIONAL PARTICIPATION.—

416 (b)1. The governing body of any municipality, metropolitan
417 planning organization, or special district in the state may
418 elect to participate in the system upon proper application to
419 the administrator and may cover all or any of its units as
420 approved by the Secretary of Health and Human Services and the
421 administrator. The department shall adopt rules establishing
422 provisions for the submission of documents necessary for such
423 application. Prior to being approved for participation in the
424 Florida Retirement System, the governing body of any such
425 municipality, metropolitan planning organization, or special
426 district that has a local retirement system shall submit to the
427 administrator a certified financial statement showing the
428 condition of the local retirement system as of a date within 3
429 months prior to the proposed effective date of membership in the
430 Florida Retirement System. The statement must be certified by a
431 recognized accounting firm that is independent of the local
432 retirement system. All required documents necessary for

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433 extending Florida Retirement System coverage must be received by
434 the department for consideration at least 15 days prior to the
435 proposed effective date of coverage. If the municipality,
436 metropolitan planning organization, or special district does not
437 comply with this requirement, the department may require that
438 the effective date of coverage be changed.

439 2. Any city, metropolitan planning organization, or special
440 district that has an existing retirement system covering the
441 employees in the units that are to be brought under the Florida
442 Retirement System may participate only after holding a
443 referendum in which all employees in the affected units have the
444 right to participate. Only those employees electing coverage
445 under the Florida Retirement System by affirmative vote in said
446 referendum shall be eligible for coverage under this chapter,
447 and those not participating or electing not to be covered by the
448 Florida Retirement System shall remain in their present systems
449 and shall not be eligible for coverage under this chapter. After
450 the referendum is held, all future employees shall be compulsory
451 members of the Florida Retirement System.

452 3. At the time of joining the Florida Retirement System,
453 the governing body of any city, metropolitan planning
454 organization, or special district complying with subparagraph 1.
455 may elect to provide, or not provide, benefits based on past
456 service of officers and employees as described in s. 121.081(1).
457 However, if such employer elects to provide past service
458 benefits, such benefits must be provided for all officers and
459 employees of its covered group.

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

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

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

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

486 c. The governing body of any hospital district seeking to

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487 | partially withdraw from the system must, before such hearing,
488 | have an actuarial report prepared and certified by an enrolled
489 | actuary, as defined in s. 112.625(3), illustrating the cost to
490 | the hospital district of providing, through the retirement plan
491 | that the hospital district is to adopt, benefits for new
492 | employees comparable to those provided under the Florida
493 | Retirement System.

494 | d. Upon meeting all applicable requirements of this
495 | subparagraph, and subject to the conditions set forth in
496 | subparagraph 6., partial withdrawal from the system and adoption
497 | of the alternative retirement plan may be accomplished by
498 | resolution duly adopted by the hospital district board. The
499 | hospital district board must provide written notice of such
500 | withdrawal to the division by mailing a copy of the resolution
501 | to the division, postmarked no later than December 15, 1995. The
502 | withdrawal shall take effect January 1, 1996.

503 | 6. Following the adoption of a resolution under sub-
504 | subparagraph 5.d., all employees of the withdrawing hospital
505 | district who were participants in the Florida Retirement System
506 | prior to January 1, 1996, shall remain as participants in the
507 | system for as long as they are employees of the hospital
508 | district, and all rights, duties, and obligations between the
509 | hospital district, the system, and the employees shall remain in
510 | full force and effect. Any employee who is hired or appointed on
511 | or after January 1, 1996, may not participate in the Florida
512 | Retirement System, and the withdrawing hospital district shall
513 | have no obligation to the system with respect to such employees.

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514 (c) Employees of public community colleges or charter
515 technical career centers sponsored by public community colleges,
516 designated in s. 1000.21(3), who are members of the Regular
517 Class of the Florida Retirement System and who comply with the
518 criteria set forth in this paragraph and s. 1012.875 may, in
519 lieu of participating in the Florida Retirement System, elect to
520 withdraw from the system altogether and participate in the State
521 Community College System Optional Retirement Program provided by
522 the employing agency under s. 1012.875.

523 1. Through June 30, 2001, the cost to the employer for
524 benefits under the optional retirement program ~~such annuity~~
525 equals the normal cost portion of the employer retirement
526 contribution which would be required if the employee were a
527 member of the pension plan's Regular Class ~~defined benefit~~
528 ~~program~~, plus the portion of the contribution rate required by
529 s. 112.363(8) which would otherwise be assigned to the Retiree
530 Health Insurance Subsidy Trust Fund. Effective July 1, 2001,
531 through June 30, 2011, each employer shall contribute on behalf
532 of each participant in the optional program an amount equal to
533 10.43 percent of the participant's gross monthly compensation.
534 The employer shall deduct an amount for the administration of
535 the program. The employer shall contribute an additional amount
536 to the Florida Retirement System Trust Fund equal to the
537 unfunded actuarial accrued liability portion of the Regular
538 Class contribution rate. The State Community College System
539 Optional Retirement Program administered pursuant to s. 1012.875
540 is closed to new participants effective July 1, 2011. All

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541 employees participating in the program on June 30, 2011, shall
542 be enrolled in the Florida Retirement System Investment Plan as
543 of July 1, 2011. Participants may continue optional program
544 accounts that were in existence on June 30, 2011.

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

552 3. An employee who has elected to participate in the
553 optional retirement program shall have one opportunity prior to
554 July 1, 2011, at the employee's discretion, to transfer from the
555 optional retirement program to the pension plan ~~defined benefit~~
556 ~~program~~ of the Florida Retirement System or to the investment
557 plan established under part II of this chapter ~~Public Employee~~
558 ~~Optional Retirement Program~~, subject to the terms of the
559 applicable optional retirement program contracts.

560 a. If the employee chooses to move to the investment plan
561 ~~Public Employee Optional Retirement program~~, any contributions,
562 interest, and earnings creditable to the employee under the
563 ~~State Community College System~~ optional retirement program are
564 retained by the employee in the ~~State Community College System~~
565 optional retirement program, and the applicable provisions of s.
566 121.4501(4) govern the election.

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

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568 | ~~defined benefit program~~ of the Florida Retirement System, the
569 | employee shall receive service credit equal to his or her years
570 | of service under the ~~State Community College System~~ optional
571 | retirement program.

572 | (I) The cost for such credit is the amount representing the
573 | present value of the employee's accumulated benefit obligation
574 | for the affected period of service. The cost shall be calculated
575 | as if the benefit commencement occurs on the first date the
576 | employee becomes eligible for unreduced benefits, using the
577 | discount rate and other relevant actuarial assumptions that were
578 | used to value the Florida Retirement System pension ~~defined~~
579 | ~~benefit~~ plan liabilities in the most recent actuarial valuation.
580 | The calculation must include any service already maintained
581 | under the pension ~~defined benefit~~ plan in addition to the years
582 | under the ~~State Community College System~~ optional retirement
583 | program. The present value of any service already maintained
584 | must be applied as a credit to total cost resulting from the
585 | calculation. The division shall ensure that the transfer sum is
586 | prepared using a formula and methodology certified by an
587 | enrolled actuary.

588 | (II) The employee must transfer from his or her ~~State~~
589 | ~~Community College System~~ optional retirement program account and
590 | from other employee moneys as necessary, a sum representing the
591 | present value of the employee's accumulated benefit obligation
592 | immediately following the time of such movement, determined
593 | assuming that attained service equals the sum of service in the
594 | pension plan ~~defined benefit program~~ and service in the ~~State~~

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595 ~~Community College System~~ optional retirement program.

596 4. Participation in the optional retirement program is
597 limited to employees who satisfy the following eligibility
598 criteria:

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

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

606 (I) Instructional; or

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

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

619 5. Participants in the program are subject to the same
620 reemployment limitations, renewed membership provisions, and
621 forfeiture provisions as are applicable to regular members of

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622 the Florida Retirement System under ss. 121.091(9), 121.122, and
623 121.091(5), respectively. A participant who receives a program
624 distribution funded by employer contributions shall be deemed to
625 be retired from a state-administered retirement system if the
626 participant is subsequently employed with an employer that
627 participates in the Florida Retirement System.

628 6. Eligible community college employees are compulsory
629 members of the Florida Retirement System until, pursuant to s.
630 1012.875, a written election to withdraw from the system and
631 participate in the ~~State Community College System~~ optional
632 retirement program is filed with the program administrator and
633 received by the division.

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

643 b. A community college employee whose program eligibility
644 is due to the subsequent designation of the employee's position
645 as one of those specified in subparagraph 4., or due to the
646 employee's appointment, promotion, transfer, or reclassification
647 to a position specified in subparagraph 4., must be enrolled in
648 the program on the first day of the first full calendar month

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649 that such change in status becomes effective. The employer
650 retirement contributions paid from the effective date through
651 the month of the employee plan change must be transferred to the
652 community college to the employee's optional program account,
653 and, effective the first day of the next month, the employer
654 shall pay the applicable contributions based upon subparagraph
655 1.

656 7. Effective July 1, 2003, through December 31, 2008, any
657 participant in ~~of the State Community College System~~ optional
658 retirement program who has service credit in the pension ~~defined~~
659 ~~benefit~~ plan of the Florida Retirement System for the period
660 between his or her first eligibility to transfer from the
661 pension ~~defined benefit~~ plan to the optional retirement program
662 and the actual date of transfer may, during employment, transfer
663 to the optional retirement program a sum representing the
664 present value of the accumulated benefit obligation under the
665 defined benefit retirement program for the period of service
666 credit. Upon transfer, all service credit previously earned
667 under the pension plan ~~defined benefit program of the Florida~~
668 ~~Retirement System~~ during this period is nullified for purposes
669 of entitlement to a future benefit under the pension plan
670 ~~defined benefit program of the Florida Retirement System~~.

671 (d) The governing body of a charter school or a charter
672 technical career center may elect to participate in the system
673 upon proper application to the administrator and shall cover its
674 units as approved by the Secretary of Health and Human Services
675 and the administrator. At the time of joining the Florida

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676 Retirement System but before July 1, 2011, the governing body of
677 the charter school may elect to provide, or not provide,
678 benefits based on past service of officers and employees as
679 described in s. 121.081(1). Once this election is made and
680 approved, it may not be revoked, and all present officers and
681 employees selecting coverage under this chapter and all future
682 officers and employees shall be compulsory members of the
683 Florida Retirement System.

684 (3) INVESTMENT PLAN MEMBERSHIP MANDATORY.-All eligible
685 employees initially enrolled on or after July 1, 2011 are
686 compulsory members of the Investment Plan, and Pension Plan
687 membership shall not be permitted. Employees initially enrolled
688 on or after July 1, 2011 are not permitted to utilize the
689 election opportunity specified in s. 121.4501(4)(e).

690 (4) ~~(3)~~ SOCIAL SECURITY COVERAGE.-Social security coverage
691 shall be provided for all officers and employees who become
692 members under the provisions of subsection (1) or subsection
693 (2). Any modification of the present agreement with the Social
694 Security Administration, or referendum required under the Social
695 Security Act, for the purpose of providing social security
696 coverage for any member shall be requested by the state agency
697 in compliance with the applicable provisions of the Social
698 Security Act governing such coverage. However, retroactive
699 social security coverage for service prior to December 1, 1970,
700 with the employer shall not be provided for any member who was
701 not covered under the agreement as of November 30, 1970. The
702 employer-paid employee contributions specified in s. 121.71(2)

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703 are subject to taxes imposed under the Federal Insurance
704 Contributions Act, 26 U.S.C. ss. 3101-3128.

705 Section 3. Section 121.0515, Florida Statutes, is amended
706 to read:

707 121.0515 Special Risk Class ~~membership~~.—

708 (1) ESTABLISHMENT OF CLASS ~~LEGISLATIVE INTENT~~.—There is
709 established a separate class ~~In creating the Special Risk Class~~
710 of membership within the Florida Retirement System, to be known
711 as the "Special Risk Class", it is the intent and purpose of the
712 ~~Legislature~~ to recognize that persons employed in certain
713 categories of law enforcement, firefighting, criminal detention,
714 and emergency medical care positions are required as one of the
715 essential functions of their positions to perform work that is
716 physically demanding or arduous, or work that requires
717 extraordinary agility and mental acuity, and that such persons,
718 because of diminishing physical and mental faculties, may find
719 that they are not able, without risk to the health and safety of
720 themselves, the public, or their coworkers, to continue
721 performing such duties and thus enjoy the full career and
722 retirement benefits enjoyed by persons employed in other
723 membership classes ~~positions~~ and that, if they find it
724 necessary, due to the physical and mental limitations of their
725 age, to retire at an earlier age and usually with less service,
726 they will suffer an economic deprivation therefrom. To address
727 ~~Therefore, as a means of recognizing~~ the peculiar and special
728 problems of this class of employees, ~~it is the intent and~~
729 ~~purpose of the Legislature to establish~~ a class of retirement

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730 membership is established that awards more retirement credit per
731 year of service than that awarded to Regular Class members ~~other~~
732 ~~employees~~; however, nothing contained herein shall require
733 ineligibility for Special Risk Class membership upon reaching
734 age 55.

735 (2) MEMBERSHIP.—

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

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

754 (c) Effective October 1, 1999, "special risk member" means a
755 member of the Florida Retirement System who is designated as a
756 special risk member by the division in accordance with this

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757 section. Such member must be employed as a law enforcement
758 officer, a firefighter, a correctional officer, an emergency
759 medical technician, or a paramedic and must meet certain other
760 special criteria as set forth in this section.

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

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

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

774 (f) Effective August 1, 2008, "special risk member" includes
775 any member who meets the special criteria for continued
776 membership set forth in s. 121.0515(3) (k).

777 (3)-~~2~~ CRITERIA.—A member, to be designated as a special
778 risk member, must meet the following criteria:

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

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

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

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811 duties and responsibilities are in accounting, purchasing,
812 legal, and personnel, shall not be included and further provided
813 that all periods of creditable service in fire prevention or
814 firefighter training, or as the supervisor or command officer of
815 a member or members who have such responsibilities, and for
816 which the employer paid the special risk contribution rate,
817 shall be included;

818 (c) Effective October 1, 1978, the member must be employed
819 as a correctional officer and be certified, or required to be
820 certified, in compliance with s. 943.1395. In addition, the
821 member's primary duties and responsibilities must be the
822 custody, and physical restraint when necessary, of prisoners or
823 inmates within a prison, jail, or other criminal detention
824 facility, or while on work detail outside the facility, or while
825 being transported; or as of July 1, 1984, the member must be the
826 supervisor or command officer of a member or members who have
827 such responsibilities; provided, however, administrative support
828 personnel, including, but not limited to, those whose primary
829 duties and responsibilities are in accounting, purchasing,
830 legal, and personnel, shall not be included; however, wardens
831 and assistant wardens, as defined by rule, shall participate in
832 the Special Risk Class;

833 (d) Effective October 1, 1999, the member must be employed
834 by a licensed Advance Life Support (ALS) or Basic Life Support
835 (BLS) employer as an emergency medical technician or a paramedic
836 and be certified in compliance with s. 401.27. In addition, the
837 member's primary duties and responsibilities must include on-

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838 | the-scene emergency medical care or as of October 1, 2001,
839 | direct supervision of emergency medical technicians or
840 | paramedics, or the member must be the supervisor or command
841 | officer of one or more members who have such responsibility.
842 | However, administrative support personnel, including, but not
843 | limited to, those whose primary responsibilities are in
844 | accounting, purchasing, legal, and personnel, shall not be
845 | included;

846 | (e) Effective January 1, 2001, the member must be employed
847 | as a community-based correctional probation officer and be
848 | certified, or required to be certified, in compliance with s.
849 | 943.1395. In addition, the member's primary duties and
850 | responsibilities must be the supervised custody, surveillance,
851 | control, investigation, and counseling of assigned inmates,
852 | probationers, parolees, or community controllees within the
853 | community; or the member must be the supervisor of a member or
854 | members who have such responsibilities. Administrative support
855 | personnel, including, but not limited to, those whose primary
856 | duties and responsibilities are in accounting, purchasing, legal
857 | services, and personnel management, shall not be included;
858 | however, probation and parole circuit and deputy circuit
859 | administrators shall participate in the Special Risk Class;

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

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865	1. Dietitian (class codes 5203 and 5204);	
866	2. Public health nutrition consultant (class code 5224);	
867	3. Psychological specialist (class codes 5230 and 5231);	
868	4. Psychologist (class code 5234);	
869	5. Senior psychologist (class codes 5237 and 5238);	
870	6. Regional mental health consultant (class code 5240);	
871	7. Psychological Services Director-DCF (class code 5242);	
872	8. Pharmacist (class codes 5245 and 5246);	
873	9. Senior pharmacist (class codes 5248 and 5249);	
874	10. Dentist (class code 5266);	
875	11. Senior dentist (class code 5269);	
876	12. Registered nurse (class codes 5290 and 5291);	
877	13. Senior registered nurse (class codes 5292 and 5293);	
878	14. Registered nurse specialist (class codes 5294 and	
879	5295);	
880	15. Clinical associate (class codes 5298 and 5299);	
881	16. Advanced registered nurse practitioner (class codes	
882	5297 and 5300);	
883	17. Advanced registered nurse practitioner specialist	
884	(class codes 5304 and 5305);	
885	18. Registered nurse supervisor (class codes 5306 and	
886	5307);	
887	19. Senior registered nurse supervisor (class codes 5308	
888	and 5309);	
889	20. Registered nursing consultant (class codes 5312 and	
890	5313);	
891	21. Quality management program supervisor (class code	

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892 5314);
893 22. Executive nursing director (class codes 5320 and 5321);
894 23. Speech and hearing therapist (class code 5406); or
895 24. Pharmacy manager (class code 5251);
896 (g) Effective July 1, 2001, the member must be employed as
897 a youth custody officer and be certified, or required to be
898 certified, in compliance with s. 943.1395. In addition, the
899 member's primary duties and responsibilities must be the
900 supervised custody, surveillance, control, investigation,
901 apprehension, arrest, and counseling of assigned juveniles
902 within the community;
903 (h) Effective October 1, 2005, through June 30, 2008, the
904 member must be employed by a law enforcement agency or medical
905 examiner's office in a forensic discipline recognized by the
906 International Association for Identification and must qualify
907 for active membership in the International Association for
908 Identification. The member's primary duties and responsibilities
909 must include the collection, examination, preservation,
910 documentation, preparation, or analysis of physical evidence or
911 testimony, or both, or the member must be the direct supervisor,
912 quality management supervisor, or command officer of one or more
913 individuals with such responsibility. Administrative support
914 personnel, including, but not limited to, those whose primary
915 responsibilities are clerical or in accounting, purchasing,
916 legal, and personnel, shall not be included;
917 (i) Effective July 1, 2008, the member must be employed by
918 the Department of Law Enforcement in the crime laboratory or by

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919 the Division of State Fire Marshal in the forensic laboratory in
920 one of the following classes:

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

928 (j) Effective July 1, 2008, the member must be employed by
929 a local government law enforcement agency or medical examiner's
930 office and must spend at least 65 percent of his or her time
931 performing duties that involve the collection, examination,
932 preservation, documentation, preparation, or analysis of human
933 tissues or fluids or physical evidence having potential
934 biological, chemical, or radiological hazard or contamination,
935 or use chemicals, processes, or materials that may have
936 carcinogenic or health-damaging properties in the analysis of
937 such evidence, or the member must be the direct supervisor of
938 one or more individuals having such responsibility. If a special
939 risk member changes to another position within the same agency,
940 he or she must submit a complete application as provided in
941 paragraph (4) ~~(3)~~(a); or

942 (k) The member must have already qualified for and be
943 actively participating in special risk membership under
944 paragraph (a), paragraph (b), or paragraph (c), must have
945 suffered a qualifying injury as defined in this paragraph, must

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946 not be receiving disability retirement benefits as provided in
947 s. 121.091(4), and must satisfy the requirements of this
948 paragraph.

949 1. The ability to qualify for the class of membership
950 defined in paragraph (2)(f) ~~s. 121.021(15)(f)~~ shall occur when
951 two licensed medical physicians, one of whom is a primary
952 treating physician of the member, certify the existence of the
953 physical injury and medical condition that constitute a
954 qualifying injury as defined in this paragraph and that the
955 member has reached maximum medical improvement after August 1,
956 2008. The certifications from the licensed medical physicians
957 must include, at a minimum, that the injury to the special risk
958 member has resulted in a physical loss, or loss of use, of at
959 least two of the following: left arm, right arm, left leg, or
960 right leg; and:

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

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

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

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

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

979 2. For the purposes of this paragraph, "qualifying injury"
980 means an injury sustained in the line of duty, as certified by
981 the member's employing agency, by a special risk member that
982 does not result in total and permanent disability as defined in
983 s. 121.091(4)(b). An injury is a qualifying injury when the
984 injury is a physical injury to the member's physical body
985 resulting in a physical loss, or loss of use, of at least two of
986 the following: left arm, right arm, left leg, or right leg.
987 Notwithstanding anything in this section to the contrary, an
988 injury that would otherwise qualify as a qualifying injury shall
989 not be considered a qualifying injury if and when the member
990 ceases employment with the employer for whom he or she was
991 providing special risk services on the date the injury occurred.

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

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1000 4. This paragraph does not grant or create additional
1001 rights for any individual to continued employment or to be hired
1002 or rehired by his or her employer that are not already provided
1003 within the Florida Statutes, the State Constitution, the
1004 Americans with Disabilities Act, if applicable, or any other
1005 applicable state or federal law.

1006 ~~(4)(3)~~ PROCEDURE FOR DESIGNATING.—

1007 (a) 1. Any Regular Class member of the Florida Retirement
1008 System employed by a county, city, or special district who feels
1009 that his or her position ~~he or she~~ meets the criteria set forth
1010 in this section for membership in the Special Risk Class may
1011 request that his or her employer submit an application to the
1012 department requesting that the department designate him or her
1013 as a Special Risk Class member. Such Regular Class member shall
1014 complete the appropriate portions of an Application for Special
1015 Risk Membership (Form FRS-400 or Form FRS-405). If the employer
1016 agrees that the member meets the requirements for Special Risk
1017 Class membership, the employer shall certify and submit ~~an~~
1018 application as set forth in this section and submit a copy of
1019 the current official job description of the member's duties
1020 showing the percentage of time spent performing each duty and a
1021 copy of a personnel action form showing the effective date of
1022 membership in that position to the department on ~~in~~ behalf of
1023 the employee ~~containing a certification that the member meets~~
1024 ~~the criteria for special risk membership set forth in this~~
1025 ~~section and such other supporting documentation as may be~~
1026 ~~required by administrative rule. The department shall, within 90~~

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1027 ~~days, either designate or refuse to designate the member as a~~
1028 ~~special risk member.~~

1029 2. Upon receipt of the completed application, proof of
1030 certification, and supporting documentation, the department
1031 shall determine if the member meets the requirements for Special
1032 Risk Class membership. If the requirements are met, the
1033 department shall approve the member for Special Risk Class
1034 membership. The employer shall certify to the department any
1035 changes to the duties and responsibilities of a Special Risk
1036 Class member. The department shall review the documentation for
1037 changes to duties and responsibilities and either continue the
1038 approval of Special Risk Class membership or reclassify the
1039 member to Regular Class membership.

1040 3. If the employer refuses to certify the member's
1041 application for Special Risk Class membership the employer shall
1042 notify the member of the employer's refusal to certify and the
1043 reasons for the refusal. If the employer declines to submit the
1044 member's application to the department or if the department does
1045 not designate the member to the as a Special Risk Class or the
1046 department removes the member from the Special Risk Class
1047 member, the member or the employer may appeal to the State
1048 Retirement Commission, as provided in s. 121.23, for designation
1049 as a Special Risk Class member. A member who receives a final
1050 affirmative ruling pursuant to such appeal for Special Risk
1051 Class membership shall have Special Risk Class membership
1052 retroactive to the date such member would have had Special Risk
1053 Class membership had such membership been approved by the

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1054 employer and the department, as determined by the department,
1055 and the employer contributions shall be paid in full within 1
1056 year after such final ruling.

1057 (b)1. Applying the criteria set forth in this section, the
1058 Department of Management Services shall specify which current
1059 and newly created classes of positions under the uniform
1060 classification plan established pursuant to chapter 110 entitle
1061 the incumbents of positions in those classes to membership in
1062 the Special Risk Class. Only employees employed in the classes
1063 so specified shall be special risk members.

1064 2. When a class is not specified by the department as
1065 provided in subparagraph 1., the employing agency may petition
1066 the State Retirement Commission for approval in accordance with
1067 s. 121.23.

1068 (5)~~(4)~~ REMOVAL OF SPECIAL RISK CLASS MEMBERSHIP.-

1069 (a) Any member who is a special risk member on October 1,
1070 1978, and who fails to meet the criteria for special risk
1071 membership established by this section shall have his or her
1072 special risk designation removed and thereafter shall be a
1073 regular member and shall earn only regular membership credit.
1074 The department shall have the authority to review the special
1075 risk designation of members to determine whether or not those
1076 members continue to meet the criteria for special risk
1077 membership.

1078 (b) Any member who is a special risk member on July 1,
1079 2008, and who became eligible to participate under paragraph
1080 (3)~~(2)~~(h) but fails to meet the criteria for special risk

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1081 membership established by paragraph (3)~~(2)~~(i) or paragraph
1082 ~~(3)~~~~(2)~~(j) shall have his or her special risk designation removed
1083 and thereafter shall be a Regular Class member and earn only
1084 Regular Class membership credit. The department may review the
1085 special risk designation of members to determine whether or not
1086 those members continue to meet the criteria for special risk
1087 membership.

1088 (c) Any member who is a Special Risk Class member and who
1089 fails to meet the criteria for the Special Risk Class shall have
1090 his or her special risk designation removed and thereafter shall
1091 be a Regular Class member and earn only Regular Class membership
1092 service credit. The department may review the Special Risk Class
1093 designation of members to determine whether or not those members
1094 continue to meet the criteria for Special Risk Class membership.

1095 (6)~~(5)~~ CREDIT FOR PAST SERVICE.—A special risk member may
1096 purchase retirement credit in the Special Risk Class based upon
1097 past service, and may upgrade retirement credit for such past
1098 service, to the extent of 2 percent of the member's average
1099 monthly compensation as specified in s. 121.091(1)(a) for such
1100 service as follows:

1101 (a) The member may purchase special risk credit for past
1102 service with a city or special district which has elected to
1103 join the Florida Retirement System, or with a participating
1104 agency to which a member's governmental unit was transferred,
1105 merged, or consolidated as provided in s. 121.081(1)(f), if the
1106 member was employed with the city or special district at the
1107 time it commenced participating in the Florida Retirement System

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1108 or with the governmental unit at the time of its transfer,
1109 merger, or consolidation with the participating agency. The
1110 service must satisfy the criteria set forth in subsection (2)
1111 for special risk membership as a law enforcement officer,
1112 firefighter, or correctional officer; however, no certificate or
1113 waiver of certificate of compliance with s. 943.1395 or s.
1114 633.35 shall be required for such service.

1115 (b) Contributions for upgrading the additional special risk
1116 credit pursuant to this subsection shall be equal to the
1117 difference in the employer and, if applicable, employee
1118 contributions paid and the special risk percentage rate of gross
1119 salary in effect at the time of purchase for the period being
1120 claimed, plus interest thereon at the rate of 4 percent a year
1121 compounded annually from the date of such service until July 1,
1122 1975, and 6.5 percent a year thereafter until the date of
1123 payment. This past service may be purchased by the member or by
1124 the employer on behalf of the member.

1125 (7)~~(6)~~ CREDIT FOR PRIOR SERVICE.—A special risk member who
1126 has creditable service with an employer under chapter 122 or
1127 chapter 321, or was employed as a correctional counselor with
1128 the Department of Corrections between December 1, 1970, and
1129 September 30, 1979, in a position which satisfies the criteria
1130 provided for in subsection (2) for special risk membership
1131 except the requirement for a certificate or waiver of
1132 certificate, shall have those years of service counted towards
1133 the attainment of the normal retirement date as a special risk
1134 member under this chapter. The percentage value of each such

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1135 year of creditable service under chapter 122, chapter 321, or as
1136 a correctional counselor shall not change as a result of the
1137 application of this subsection. A special risk member who has
1138 taken a refund of contributions for such creditable service
1139 under chapter 122 or chapter 321 and has reclaimed it as prior
1140 service credit under this chapter shall be permitted to have
1141 such creditable service counted towards the attainment of the
1142 normal retirement date for the Special Risk Class of membership
1143 under this chapter.

1144 (8)-(7) SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS RETENTION
1145 OF SPECIAL RISK NORMAL RETIREMENT DATE.-

1146 (a) Effective July 1, 2011, the Special Risk Administrative
1147 Support Class is closed. Existing members as of June 30, 2011,
1148 shall participate in the Regular Class on and after July 1,
1149 2011.

1150 (b) Effective October 1, 1978, through June 30, 2011, a
1151 special risk member who is moved or reassigned to a nonspecial
1152 risk law enforcement, firefighting, correctional, or emergency
1153 medical care administrative support position with the same
1154 agency, or who is subsequently employed in such a position with
1155 any law enforcement, firefighting, correctional, or emergency
1156 medical care agency under the Florida Retirement System, shall
1157 participate in the Special Risk Administrative Support Class and
1158 shall earn credit for such service at the same percentage rate
1159 as that earned by a regular member. Notwithstanding the
1160 provisions of subsection (5)-(4), service in such an
1161 administrative support position shall, for purposes of s.

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1162 121.091, apply toward satisfaction of the special risk normal
1163 retirement date, as defined in s. 121.021(29)(b), provided that,
1164 while in such position, the member remains certified as a law
1165 enforcement officer, firefighter, correctional officer,
1166 emergency medical technician, or paramedic; remains subject to
1167 reassignment at any time to a position qualifying for special
1168 risk membership; and completes an aggregate of 6 or more years
1169 of service as a designated special risk member prior to
1170 retirement.

1171 (b) Upon application by a member, the provisions of this
1172 subsection shall apply, with respect to such member,
1173 retroactively to October 1, 1978, provided that the member was
1174 removed from the Special Risk Class effective October 1, 1978,
1175 due to a change in special risk criteria as a result of the
1176 enactment of chapter 78-308, Laws of Florida, or was reassigned
1177 or employed for training or career development or to fill a
1178 critical agency need.

1179 (c) The department shall adopt such rules as are required
1180 to administer this subsection.

1181 (d) Notwithstanding any provision of this subsection to the
1182 contrary, this subsection does not apply to any special risk
1183 member who qualifies for continued membership pursuant to the
1184 provisions of paragraph (2)(k).

1185 (9) ~~(8)~~ RESTORATION OF SPECIAL RISK CREDIT FOR SPECIFIED
1186 PERIOD OF EMPLOYMENT.—A special risk member who was removed from
1187 the Special Risk Class effective October 1978, for the sole
1188 reason that he or she did not possess the required certificate

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1189 or temporary waiver of certificate, and who obtained
1190 certification and was approved for special risk membership on or
1191 before June 30, 1982, shall be permitted to have special risk
1192 credit restored for that period upon:

1193 (a) Certification by his or her employer that all
1194 requirements for special risk membership except the requirement
1195 for certification or temporary waiver of certification were met;
1196 and

1197 (b) Payment of contributions equal to the difference in the
1198 contributions that were paid during the period and the
1199 contributions required for special risk members during that
1200 period, plus 6.5 percent interest thereon, compounded each June
1201 30 from date of service until date of payment.

1202
1203 This credit may be purchased by the member or by the employer on
1204 behalf of the member.

1205 (10)~~(9)~~ CREDIT FOR UPGRADED SERVICE.--

1206 (a) Any member of the Special Risk Class who has earned
1207 creditable service through September 30, 1999 in another
1208 membership class of the Florida Retirement System as an
1209 emergency medical technician or paramedic, which service is
1210 within the purview of the Special Risk Class, may purchase
1211 additional retirement credit to upgrade such service to Special
1212 Risk Class service, to the extent of the percentages of the
1213 member's average final compensation provided in s.

1214 121.091(1)(a)2. Contributions for upgrading such service to
1215 Special Risk Class credit under this subsection shall be equal

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1216 to the difference in the contributions paid and the Special Risk
1217 Class contribution rate as a percentage of gross salary in
1218 effect for the period being claimed, plus interest thereon at
1219 the rate of 6.5 percent a year, compounded annually until the
1220 date of payment. This service credit may be purchased by the
1221 employer on behalf of the member.

1222 (b) Any member of the Special Risk Class who has earned
1223 creditable service through September 30, 2001 in another
1224 membership class of the Florida Retirement System whose
1225 responsibilities included fire prevention or firefighter
1226 training, which service is within the purview of the Special
1227 Risk Class, may purchase additional retirement credit to upgrade
1228 such service to Special Risk Class service, to the extent of the
1229 percentages of the member's average final compensation provided
1230 in s. 121.091(1)(a)2. Contributions for upgrading such service
1231 to Special Risk Class credit under this subsection shall be
1232 equal to the difference in the contributions paid and the
1233 Special Risk Class contribution rate as a percentage of gross
1234 salary in effect for the period being claimed, plus interest
1235 thereon at the rate of 6.5 percent a year, compounded annually
1236 until the date of payment. This service credit may be purchased
1237 by the employer on behalf of the member.

1238 (c) Any member of the Special Risk Class who has earned
1239 creditable service through June 30, 2005 in another membership
1240 class of the Florida Retirement System in a position with the
1241 Department of Law Enforcement or the Division of State Fire
1242 Marshal and became covered by the Special Risk Class as

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1243	described in paragraph <u>(3)</u> (2) (i), or with a local government law	
1244	enforcement agency or medical examiner's office and became	
1245	covered by the Special Risk Class as described in paragraph	
1246	<u>(3)</u> (2) (j), which service is within the purview of the Special	
1247	Risk Class, and is employed in such position on or after July 1,	
1248	2008, may purchase additional retirement credit to upgrade such	
1249	service to Special Risk Class service, to the extent of the	
1250	percentages of the member's average final compensation provided	
1251	in s. 121.091(1)(a)2. The cost for such credit shall be an	
1252	amount representing the actuarial accrued liability for the	
1253	difference in accrual value during the affected period of	
1254	service. The cost shall be calculated using the discount rate	
1255	and other relevant actuarial assumptions that were used to value	
1256	the Florida Retirement System <u>Pension</u> defined benefit Plan	
1257	liabilities in the most recent actuarial valuation. The division	
1258	shall ensure that the transfer sum is prepared using a formula	
1259	and methodology certified by an enrolled actuary. The cost must	
1260	be paid immediately upon notification by the division. The local	
1261	government employer may purchase the upgraded service credit on	
1262	behalf of the member if the member has been employed by that	
1263	employer for at least 3 years.	
1264	Section 4. Paragraphs (a) and (d) of subsection (4) and	
1265	paragraph (b) of subsection (7), and subsection (10) of section	
1266	121.052, Florida Statutes, are amended, present paragraph (c) of	
1267	subsection (7) of that section is redesignated as paragraph (d),	
1268	and a new paragraph (c) is added to that subsection, to read:	
1269	121.052 Membership class of elected officers.—	

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1270 (4) PARTICIPATION BY ELECTED OFFICERS SERVING A SHORTENED
1271 TERM DUE TO APPORTIONMENT, FEDERAL INTERVENTION, ETC.—

1272 (a) Any duly elected officer whose term of office was
1273 shortened by legislative or judicial apportionment pursuant to
1274 the provisions of s. 16, Art. III of the State Constitution may,
1275 after the term of office to which he or she was elected is
1276 completed, pay into the System Trust Fund the amount of
1277 contributions that would have been made by the officer or the
1278 officer's employer on his or her behalf, plus 4 percent interest
1279 compounded annually from the date he or she left office until
1280 July 1, 1975, and 6.5 percent interest compounded annually
1281 thereafter, and may receive service credit for the length of
1282 time the officer would have served if such term had not been
1283 shortened by apportionment.

1284 (d)1. Any justice or judge, or any retired justice or judge
1285 who retired before July 1, 1993, who has attained the age of 70
1286 years and who is prevented under s. 8, Art. V of the State
1287 Constitution from completing his or her term of office because
1288 of age may elect to purchase credit for all or a portion of the
1289 months he or she would have served during the remainder of the
1290 term of office, but he or she may claim those months only after
1291 the date the service would have occurred. The justice or judge
1292 must pay into the System Trust Fund the amount of contributions
1293 that would have been made by the employer on his or her behalf
1294 for the period of time being claimed, plus 6.5 percent interest
1295 thereon compounded each June 30 from the date he or she left
1296 office, in order to receive service credit in this class for the

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1297 period of time being claimed. After the date the service would
1298 have occurred, and upon payment of the required contributions,
1299 the retirement benefit of a retired justice or judge will be
1300 adjusted prospectively to include this additional creditable
1301 service; however, such adjustment may be made only once.

1302 2. Any justice or judge who does not seek election to a
1303 subsequent term of office because he or she would be prevented
1304 under s. 8, Art. V of the State Constitution from completing
1305 such term of office upon attaining the age of 70 years may elect
1306 to purchase service credit for service as a temporary judge as
1307 assigned by the court if the temporary assignment follows
1308 immediately the last full term of office served and the purchase
1309 is limited to the number of months of service needed to vest
1310 retirement benefits. To receive retirement credit for such
1311 temporary service beyond termination, the justice or judge must
1312 pay into the System Trust Fund the amount of contributions that
1313 would have been made by the justice or judge and the employer on
1314 his or her behalf had he or she continued in office for the
1315 period of time being claimed, plus 6.5 percent interest thereon
1316 compounded each June 30 from the date he or she left office.

1317 (7) CONTRIBUTIONS.—

1318 (b) The employer paying the salary of a member of the
1319 Elected Officers' Class shall contribute an amount as specified
1320 in this subsection or s. 121.71, as appropriate, which shall
1321 constitute the ~~entire~~ employer retirement contribution with
1322 respect to such member. The employer shall also withhold one-
1323 half of the entire contribution of the member required for

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1324 social security coverage. Effective July 1, 2011, each member of
1325 the Elected Officers' Class shall pay employee contributions as
1326 specified in s. 121.71.

1327 (c) If a member of the Elected Officer' Class ceases to
1328 fill an office covered by this class for 3 calendar months for
1329 any reason other than retirement and has not been employed in
1330 any capacity with any participating employer for 3 calendar
1331 months, the member may receive a refund of all contributions he
1332 or she has made to the pension plan, subject to the restrictions
1333 otherwise provided in this chapter. Partial refunds are not
1334 permitted. The refund shall not include any interest earnings on
1335 the contributions for a member of the pension plan. Employer
1336 contributions made on behalf of the member are not refundable. A
1337 member may not receive a refund of employee contributions if a
1338 pending or an approved qualified domestic relations order is
1339 filed against the member's retirement account. By obtaining a
1340 refund of contributions, a member waives all rights under the
1341 Florida Retirement System and the health insurance subsidy
1342 provided under s. 112.363 to the service credit represented by
1343 the refunded contributions, except the right to purchase his or
1344 her prior service credit in accordance with s. 121.081(2).

1345 (10) ACCRUED SERVICE VALUE.—Prior to July 1, 2011, a member
1346 of the Elected Officers' Class who is a Supreme Court justice,
1347 district court of appeal judge, circuit judge, or county court
1348 judge shall receive judicial retirement credit of 3 1/3 percent
1349 of average final compensation, and all other members shall
1350 receive elected officer accrual value ~~retirement credit~~ of 3

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1351 percent of average final compensation, for each year of
1352 creditable service in such class. Effective on or after July 1,
1353 2011, a member of the Elected Officers' Class shall receive the
1354 accrual value specified in s. 121.091(1)(a)4., for each year of
1355 creditable service in such class.

1356 Section 5. Paragraph (a) of subsection (7) of section
1357 121.053, Florida Statutes, is amended to read:

1358 121.053 Participation in the Elected Officers' Class for
1359 retired members.—

1360 (7) A member who is elected or appointed to an elective
1361 office and who is participating in the Deferred Retirement
1362 Option Program is not subject to termination as defined in s.
1363 121.021, or reemployment limitations as provided in s.
1364 121.091(9), until the end of his or her current term of office
1365 or, if the officer is consecutively elected or reelected to an
1366 elective office eligible for coverage under the Florida
1367 Retirement System, until he or she no longer holds an elective
1368 office, as follows:

1369 (a) At the end of the 60-month DROP period:

1370 1. The officer's DROP account may not accrue additional
1371 monthly benefits, but does continue to earn interest as provided
1372 in s. 121.091(13). However, an officer whose DROP participation
1373 begins on or after July 1, 2010, may not continue to earn such
1374 interest.

1375 2. Retirement contributions, except for unfunded actuarial
1376 liability and health insurance subsidy contributions required in
1377 ss. 121.71(5) and 121.76, are not required of the employer of

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1378 the elected officer and additional retirement credit may not be
1379 earned under the Florida Retirement System.

1380 Section 6. Paragraphs (b) and (j) of subsection (1),
1381 paragraph (b) of subsection (3), and paragraphs (d) and (e) of
1382 subsection (6) of section 121.055, Florida Statutes, are
1383 amended, present paragraph (c) of subsection (3) of that section
1384 is redesignated as paragraph (d), and a new paragraph (c) is
1385 added to that subsection, to read:

1386 121.055 Senior Management Service Class.—There is hereby
1387 established a separate class of membership within the Florida
1388 Retirement System to be known as the "Senior Management Service
1389 Class," which shall become effective February 1, 1987.

1390 (1)

1391 (b)1. Except as provided in subparagraph 2., effective
1392 January 1, 1990, participation in the Senior Management Service
1393 Class is ~~shall be~~ compulsory for the president of each community
1394 college, the manager of each participating city or county, and
1395 all appointed district school superintendents. Effective January
1396 1, 1994, additional positions may be designated for inclusion in
1397 the Senior Management Service Class of the Florida Retirement
1398 System, provided that:

1399 a. Positions to be included in the class shall be
1400 designated by the local agency employer. Notice of intent to
1401 designate positions for inclusion in the class shall be
1402 published once a week for 2 consecutive weeks in a newspaper of
1403 general circulation published in the county or counties
1404 affected, as provided in chapter 50.

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1405 b. Up to 10 nonelective full-time positions may be
1406 designated for each local agency employer reporting to the
1407 department ~~of Management Services~~; for local agencies with 100
1408 or more regularly established positions, additional nonelective
1409 full-time positions may be designated, not to exceed 1 percent
1410 of the regularly established positions within the agency.

1411 c. Each position added to the class must be a managerial or
1412 policymaking position filled by an employee who is not subject
1413 to continuing contract and serves at the pleasure of the local
1414 agency employer without civil service protection, and who:

1415 (I) Heads an organizational unit; or

1416 (II) Has responsibility to effect or recommend personnel,
1417 budget, expenditure, or policy decisions in his or her areas of
1418 responsibility.

1419 2. In lieu of participation in the Senior Management
1420 Service Class, members of the Senior Management Service class,
1421 pursuant to the provisions of subparagraph 1., may withdraw from
1422 the Florida Retirement System altogether. The decision to
1423 withdraw from the Florida Retirement System is ~~shall be~~
1424 irrevocable ~~for~~ as long as the employee holds the ~~such a~~
1425 position. Any service creditable under the Senior Management
1426 Service Class shall be retained after the member withdraws from
1427 the Florida Retirement System; however, additional service
1428 credit in the Senior Management Service Class may ~~shall~~ not be
1429 earned after such withdrawal. Such members are ~~shall not be~~
1430 eligible to participate in the Senior Management Service
1431 Optional Annuity Program.

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1432 3. Effective January 1, 2006, through June 30, 2006, an
1433 employee who has withdrawn from the Florida Retirement System
1434 under subparagraph 2. has one opportunity to elect to
1435 participate in either the defined benefit program or the Public
1436 Employee Optional Retirement Program of the Florida Retirement
1437 System.

1438 a. If the employee elects to participate in the Public
1439 Employee Optional Retirement Program, membership shall be
1440 prospective, and the applicable provisions of s. 121.4501(4)
1441 shall govern the election.

1442 b. If the employee elects to participate in the defined
1443 benefit program of the Florida Retirement System, the employee
1444 shall, upon payment to the system trust fund of the amount
1445 calculated under sub-sub-subparagraph (I), receive service
1446 credit for prior service based upon the time during which the
1447 employee had withdrawn from the system.

1448 (I) The cost for such credit shall be an amount
1449 representing the actuarial accrued liability for the affected
1450 period of service. The cost shall be calculated using the
1451 discount rate and other relevant actuarial assumptions that were
1452 used to value the Florida Retirement System defined benefit plan
1453 liabilities in the most recent actuarial valuation. The
1454 calculation shall include any service already maintained under
1455 the defined benefit plan in addition to the period of
1456 withdrawal. The actuarial accrued liability attributable to any
1457 service already maintained under the defined benefit plan shall
1458 be applied as a credit to the total cost resulting from the

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1459 calculation. The division shall ensure that the transfer sum is
1460 prepared using a formula and methodology certified by an
1461 actuary.

1462 (II) The employee must transfer a sum representing the net
1463 cost owed for the actuarial accrued liability in sub-sub-
1464 subparagraph (I) immediately following the time of such
1465 movement, determined assuming that attained service equals the
1466 sum of service in the defined benefit program and the period of
1467 withdrawal.

1468 (j) Except as may otherwise be provided, any member of the
1469 Senior Management Service Class may purchase additional
1470 retirement credit in such class for creditable service within
1471 the purview of the Senior Management Service Class between
1472 ~~retroactive to~~ February 1, 1987 and June 30, 2011, and may
1473 upgrade retirement credit for such service, to the extent of 2
1474 percent of the member's average monthly compensation as
1475 specified in paragraph (4)(d) for such service. Contributions
1476 for upgrading the additional Senior Management Service credit
1477 pursuant to this paragraph shall be equal to the difference in
1478 the employer and, if applicable, employee contributions paid and
1479 the Senior Management Service Class contribution rate as a
1480 percentage of gross salary in effect for the period being
1481 claimed, plus interest thereon at the rate of 6.5 percent a
1482 year, compounded annually until the date of payment. This
1483 service credit may be purchased by the employer on behalf of the
1484 member.

1485 (3)

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1486 (b) The employer paying the salary of a member of the
1487 Senior Management Service Class shall contribute an amount as
1488 specified in this section or s. 121.71, as appropriate, which
1489 shall constitute the entire employer retirement contribution
1490 with respect to such member. The employer shall also withhold
1491 one-half of the entire contribution of the member required for
1492 social security coverage. Effective July 1, 2011, each member
1493 shall pay employee contributions as specified in s. 121.71.

1494 (c) Upon termination of employment from all participating
1495 employers for 3 calendar months for any reason other than
1496 retirement pursuant to s. 121.021(39)(c), a member may receive a
1497 refund of all contributions he or she has made to the pension
1498 plan, subject to the restrictions otherwise provided in this
1499 chapter. Partial refunds are not permitted. The refund shall not
1500 include any interest earnings on the contributions for a member
1501 of the pension plan. Employer contributions made on behalf of
1502 the member are not refundable. A member may not receive a refund
1503 of employee contributions if a pending or an approved qualified
1504 domestic relations order is filed against the member's
1505 retirement account. By obtaining a refund of contributions, a
1506 member waives all rights under the Florida Retirement System and
1507 the health insurance subsidy to the service credit represented
1508 by the refunded contributions, except the right to purchase his
1509 or her prior service credit in accordance with s. 121.081(2).

1510 (4)

1511 (d) 1. A member of the Senior Management Service Class shall
1512 receive retirement credit at the rate of 2 percent of average

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1513 final compensation for each year of service in such class
1514 between February 1, 1987 and June 30, 2011 ~~after January 31,~~
1515 ~~1987.~~

1516 2. Effective on or after July 1, 2011, a member of the
1517 Senior Management Service Class shall receive the accrual value
1518 specified in s. 121.091(1)(a)3., for each year of creditable
1519 service in such class.

1520 (6) (a) *Senior Management Service Optional Annuity Program.*—
1521 The Department of Management Services shall establish a Senior
1522 Management Service Optional Annuity Program under which
1523 contracts providing retirement, death, and disability benefits
1524 may be purchased for those employees who elect to participate in
1525 the optional annuity program. The benefits to be provided for or
1526 on behalf of participants in such optional annuity program shall
1527 be provided through individual contracts or individual
1528 certificates issued for group annuity contracts, which may be
1529 fixed, variable, or a combination thereof, in accordance with s.
1530 401(a) of the Internal Revenue Code. Any such individual
1531 contract or certificate shall state the annuity plan on its face
1532 page, and shall include, but not be limited to, a statement of
1533 ownership, the contract benefits, annuity income options,
1534 limitations, expense charges, and surrender charges, if any. The
1535 employing agency shall contribute, as provided in this section,
1536 toward the purchase of such optional benefits which shall be
1537 fully and immediately vested in the participants.

1538 1. The Senior Management Service Optional Annuity Program
1539 is closed to new participants effective July 1, 2011. All
1540 employees and officers participating in the program on June 30,

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1541 2011, shall be enrolled in the Florida Retirement System
1542 Investment Plan as of July 1, 2011. Participants may continue
1543 optional program accounts that were in existence on June 30,
1544 2011.
1545 2. Effective July 1, 2011, voluntary participant
1546 contributions are not allowed.

1547 3. Effective July 1, 2011, benefits funded by the
1548 participant's voluntary personal contributions may be paid out
1549 after being terminated from all employment with system employers
1550 as required in s. 121.039.
1551 (d) Contributions.—

1552 1. Through June 30, 2001, each employer shall contribute on
1553 behalf of each participant in the Senior Management Service
1554 Optional Annuity Program an amount equal to the normal cost
1555 portion of the employer retirement contribution which would be
1556 required if the participant were a Senior Management Service
1557 Class member of the Florida Retirement System pension plan
1558 ~~defined benefit program~~, plus the portion of the contribution
1559 rate required in s. 112.363(8) that would otherwise be assigned
1560 to the Retiree Health Insurance Subsidy Trust Fund. For the
1561 period ~~Effective~~ July 1, 2001, through June 30, 2011, each
1562 employer shall contribute on behalf of each participant in the
1563 optional program an amount equal to 12.49 percent of the
1564 participant's gross monthly compensation. Effective July 1,
1565 2011, no employee or employer may contribute to an optional
1566 annuity program account. The department shall deduct an amount
1567 approved by the Legislature to provide for the administration of
1568 this program. The payment of the contributions to the optional

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1569 program which is required by this subparagraph for each
1570 participant shall be made by the employer to the department,
1571 which shall forward the contributions to the designated company
1572 or companies contracting for payment of benefits for the
1573 participant under the program.

1574 2. Each employer shall contribute on behalf of each
1575 participant in the Senior Management Service Optional Annuity
1576 Program an amount equal to the unfunded actuarial accrued
1577 liability portion of the employer contribution which would be
1578 required for members of the Senior Management Service Class in
1579 the Florida Retirement System. This contribution shall be paid
1580 to the department for transfer to the Florida Retirement System
1581 Trust Fund.

1582 3. An Optional Annuity Program Trust Fund shall be
1583 established in the State Treasury and administered by the
1584 department to make payments to provider companies on behalf of
1585 the optional annuity program participants, and to transfer the
1586 unfunded liability portion of the state optional annuity program
1587 contributions to the Florida Retirement System Trust Fund.

1588 4. Contributions required for social security by each
1589 employer and each participant, in the amount required for social
1590 security coverage as now or hereafter may be provided by the
1591 federal Social Security Act shall be maintained for each
1592 participant in the Senior Management Service retirement program
1593 and shall be in addition to the retirement contributions
1594 specified in this paragraph.

1595 5. Each participant in the Senior Management Service

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1596 Optional Annuity Program may contribute by way of salary
1597 reduction or deduction a percentage amount of the participant's
1598 gross compensation not to exceed the percentage amount
1599 contributed by the employer to the optional annuity program.
1600 Payment of the participant's contributions shall be made by the
1601 employer to the department, which shall forward the
1602 contributions to the designated company or companies contracting
1603 for payment of benefits for the participant under the program.

1604 (e) *Benefits.*—

1605 1. Benefits under the Senior Management Service Optional
1606 Annuity Program are payable only to participants in the program,
1607 or their beneficiaries as designated by the participant in the
1608 contract with the provider company, and must be paid by the
1609 designated company in accordance with the terms of the annuity
1610 contract applicable to the participant. A participant must be
1611 terminated from all employment relationships with Florida
1612 Retirement System employers as provided in s. 121.021(39) to
1613 begin receiving the employee and employer-funded benefit.
1614 Benefits funded by employee and employer contributions are
1615 payable under the terms of the contract to the participant, his
1616 or her beneficiary, or his or her estate, in addition to:

1617 a. A lump-sum payment to the beneficiary upon the death of
1618 the participant;

1619 b. A cash-out of a de minimis account upon the request of a
1620 former participant who has been terminated for a minimum of 6
1621 calendar months from the employment that entitled him or her to
1622 optional annuity program participation. Such cash-out must be a

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1623 complete liquidation of the account balance with that company
1624 and is subject to the Internal Revenue Code;

1625 c. A mandatory distribution of a de minimis account of a
1626 former participant who has been terminated for a minimum of 6
1627 calendar months from the employment that entitled him or her to
1628 optional annuity program participation as authorized by the
1629 department; or

1630 d. A lump-sum direct rollover distribution whereby all
1631 accrued benefits, plus interest and investment earnings, are
1632 paid from the participant's account directly to the custodian of
1633 an eligible retirement plan, as defined in s. 402(c)(8)(B) of
1634 the Internal Revenue Code, on behalf of the participant.

1635 2. Under the Senior Management Service Optional Annuity
1636 Program, benefits are not payable for employee hardships,
1637 unforeseeable emergencies, loans, medical expenses, educational
1638 expenses, purchase of a principal residence, payments necessary
1639 to prevent eviction or foreclosure on an employee's principal
1640 residence, or for any other reason prior to termination from all
1641 employment relationships with participating employers, as
1642 provided in s. 121.021(39).

1643 ~~3.2.~~ The benefits payable to any person under the Senior
1644 Management Service Optional Annuity Program, and any
1645 contribution accumulated under such program, are not subject to
1646 assignment, execution, or attachment or to any legal process
1647 whatsoever.

1648 ~~4.3.~~ Except as provided in subparagraph 5. 4., a
1649 participant who terminates employment and receives a

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1650 distribution, including a rollover or trustee-to-trustee
1651 transfer, funded by employer contributions shall be deemed to be
1652 retired from a state-administered retirement system if the
1653 participant is subsequently employed with an employer that
1654 participates in the Florida Retirement System.

1655 5.4. A participant who receives optional annuity program
1656 benefits funded by employee and employer contributions as a
1657 mandatory distribution of a de minimis account authorized by the
1658 department is not considered a retiree.

1659
1660 As used in this paragraph, a "de minimis account" means an
1661 account with a provider company containing employee and employer
1662 contributions and accumulated earnings of not more than \$5,000
1663 made under this chapter.

1664 Section 7. Subsections (2) and (5) and paragraph (c) of
1665 subsection (6) of section 121.071, Florida Statutes, are
1666 amended, present paragraph (d) of subsection (6) of that section
1667 is redesignated as paragraph (e), and a new paragraph (d) is
1668 added to that subsection, to read:

1669 121.071 Contributions.—Contributions to the system shall be
1670 made as follows:

1671 (2) (a) Effective January 1, 1975, or October 1, 1975, as
1672 applicable, and through June 30, 2011, each employer shall
1673 accomplish the contribution required by subsection (1) by a
1674 procedure in which no employee's gross salary shall be reduced.
1675 Effective July 1, 2011, each employee and employer shall pay
1676 retirement contributions as specified in s. 121.71.

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1677 (b) Upon termination of employment from all participating
1678 employers for 3 calendar months for any reason other than
1679 retirement pursuant to s. 121.021(39)(c), a member may receive
1680 ~~shall be entitled to a full refund of all the~~ contributions he
1681 or she has made to the pension prior or subsequent to
1682 participation in the noncontributory plan, subject to the
1683 restrictions otherwise provided in this chapter. Partial refunds
1684 are not permitted. The refund shall not include any interest
1685 earnings on the contributions for a member of the pension plan.
1686 Employer contributions made on behalf of the member are not
1687 refundable. A member may not receive a refund of employee
1688 contributions if a pending or an approved qualified domestic
1689 relations order is filed against his or her retirement account.
1690 By obtaining a refund of contributions, a member waives all
1691 rights under the Florida Retirement System and the health
1692 insurance subsidy to the service credit represented by the
1693 refunded contributions, except the right to purchase his or her
1694 prior service credit in accordance with s. 121.081(2).

1695 (5) Contributions made in accordance with subsections (1),
1696 (2), (3), and (4), and s. 121.71 shall be paid ~~by the employer~~
1697 into the system trust funds in accordance with rules adopted by
1698 the administrator pursuant to chapter 120, except as may be
1699 otherwise specified herein. Effective July 1, 2002,
1700 contributions paid under subsections (1) and (4) and
1701 accompanying payroll data are due and payable no later than the
1702 5th working day of the month immediately following the month
1703 during which the payroll period ended.

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1704 (6)
1705 (c) By obtaining a refund of contributions, a member waives
1706 all rights under the Florida Retirement System and the health
1707 insurance subsidy as provided in s. 112.363 to the service
1708 credit represented by the refunded contributions, except the
1709 right to purchase his or her prior service credit in accordance
1710 with s. 121.081(2).

1711 (d) If a member or former member of the pension plan
1712 receives an invalid refund from the Florida Retirement System
1713 Trust Fund, such person must repay the full amount of the
1714 invalid refund, plus interest at 6.5 percent compounded annually
1715 on each June 30 from the date of refund until full payment is
1716 made to the trust fund. The invalid refund must be repaid before
1717 the member retires or, if applicable, transfers to the
1718 investment plan.

1719 Section 8. Paragraphs (b) and (c) of subsection (1) and
1720 subsection (2) of section 121.081, Florida Statutes, are amended
1721 to read:

1722 121.081 Past service; prior service; contributions.—
1723 Conditions under which past service or prior service may be
1724 claimed and credited are:

1725 (1)
1726 (b) Past service earned after January 1, 1975, may be
1727 claimed by officers or employees of a municipality, metropolitan
1728 planning organization, charter school, charter technical career
1729 center, or special district who become a covered group under
1730 this system. The governing body of a covered group may elect to

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1731 provide benefits for past service earned after January 1, 1975,
1732 in accordance with this chapter, and the cost for such past
1733 service is established by applying the following formula: The
1734 employer shall contribute an amount equal to the employer
1735 contribution rate in effect at the time the service was earned,
1736 and, if applicable, the employee contribution rate, multiplied
1737 by the employee's gross salary for each year of past service
1738 claimed, plus 6.5-percent interest thereon, compounded annually,
1739 figured on each year of past service, with interest compounded
1740 from date of annual salary earned until date of payment.

1741 (c) If an employer joins the Florida Retirement System
1742 prior to July 1, 2011 and does ~~Should the employer~~ not elect to
1743 provide past service for the member at the time of joining, ~~then~~
1744 the member may claim and pay for the service as provided in
1745 ~~same, based on~~ paragraphs (a) and (b).

1746 (2) Prior service, as defined in s. 121.021(19), may be
1747 claimed as creditable service under the Florida Retirement
1748 System after a member has been reemployed for 1 complete year of
1749 creditable service ~~within a period of 12 consecutive months,~~
1750 except as provided in paragraph (c). Service performed as a
1751 participant of the optional retirement program for the State
1752 University System under s. 121.35 or the Senior Management
1753 Service Optional Annuity Program under s. 121.055 may be used to
1754 satisfy the reemployment requirement of 1 complete year of
1755 creditable service. The member shall not be permitted to make
1756 any contributions for prior service until after completion of
1757 the 1 year of creditable service. If a member does not wish to

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1758	claim credit for all of his or her prior service, the service	
1759	the member claims must be the most recent period of service. The	
1760	required contributions for claiming the various types of prior	
1761	service are:	
1762	(a) For prior service performed prior to the date the	
1763	system becomes noncontributory for the member and for which the	
1764	member had credit under one of the existing retirement systems	
1765	and received a refund of contributions upon termination of	
1766	employment, the member shall contribute 4 percent of all salary	
1767	received during the period being claimed, plus 4-percent	
1768	interest compounded annually from date of refund until July 1,	
1769	1975, and 6.5-percent interest compounded annually thereafter,	
1770	until full payment is made to the Retirement Trust Fund, and	
1771	shall receive credit in the Regular Class. A member who elected	
1772	to transfer to the Florida Retirement System from an existing	
1773	system may receive credit for prior service under the existing	
1774	system if he or she was eligible under the existing system to	
1775	claim the prior service at the time of the transfer.	
1776	Contributions for such prior service shall be determined by the	
1777	applicable provisions of the system under which the prior	
1778	service is claimed and shall be paid by the member, with	
1779	matching contributions paid by the employer at the time the	
1780	service was performed. Effective July 1, 1978, the account of a	
1781	person who terminated under s. 238.05(3) may not be charged	
1782	interest for contributions that remained on deposit in the	
1783	Annuity Savings Trust Fund established under chapter 238, upon	
1784	retirement under this chapter or chapter 238.	

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1785 (b) For prior service performed prior to the date the
1786 system becomes noncontributory for the member and for which the
1787 member had credit under the Florida Retirement System and
1788 received a refund of contributions upon termination of
1789 employment, the member shall contribute at the rate that was
1790 required of him or her during the period of service being
1791 claimed, on all salary received during such period, plus 4-
1792 percent interest compounded annually from date of refund until
1793 July 1, 1975, and 6.5-percent interest compounded annually
1794 thereafter, until the full payment is made to the Retirement
1795 Trust Fund, and shall receive credit in the membership class in
1796 which the member participated during the period claimed.

1797 (c) For prior service as defined in s. 121.021(19)(b) and
1798 (c) during which no contributions were made because the member
1799 did not participate in a retirement system, the member shall
1800 contribute 14.38 percent of all salary received during such
1801 period or 14.38 percent of \$100 per month during such period,
1802 whichever is greater, plus 4-percent interest compounded
1803 annually from the first year of service claimed until July 1,
1804 1975, and 6.5-percent interest compounded annually thereafter,
1805 until full payment is made to the Retirement Trust Fund, and
1806 shall receive credit in the Regular Class.

1807 (d) In order to claim credit for prior service as defined
1808 in s. 121.021(19)(d) for which no retirement contributions were
1809 paid during the period of such service, the member shall
1810 contribute the total employee and employer contributions which
1811 were required to be made to the Highway Patrol Pension Trust

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1812 Fund, as provided in chapter 321, during the period claimed,
1813 plus 4-percent interest compounded annually from the first year
1814 of service until July 1, 1975, and 6.5-percent interest
1815 compounded annually thereafter, until full payment is made to
1816 the Retirement Trust Fund. However, any governmental entity
1817 which employed such member may elect to pay up to 50 percent of
1818 the contributions and interest required to purchase this prior
1819 service credit. The service shall be credited in accordance with
1820 the provisions of the Highway Patrol Pension Plan in effect
1821 during the period claimed unless the member terminated and
1822 withdrew his or her retirement contributions and was thereafter
1823 enrolled in the State and County Officers and Employees'
1824 Retirement System or the Florida Retirement System, in which
1825 case the service shall be credited as Regular Class service.

1826 (e) For service performed under the Florida Retirement
1827 System after December 1, 1970, that was never reported to the
1828 division or the department due to error, retirement credit may
1829 be claimed by a member of the Florida Retirement System. The
1830 department shall adopt rules establishing criteria for claiming
1831 such credit and detailing the documentation required to
1832 substantiate the error.

1833 (f) For prior service performed after June 30, 2011, for
1834 which the member had credit under the Florida Retirement System
1835 and received a refund of contributions upon termination of
1836 employment for 3 calendar months, the member shall contribute at
1837 the rate that was required of him or her during the period of
1838 service being claimed, plus 6.5 percent interest, compounded

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1839 annually on each June 30 from date of refund until the full
1840 payment is made to the Florida Retirement System Trust Fund, and
1841 shall receive credit in the membership class in which the member
1842 participated during the period claimed.

1843 (g)~~(f)~~ The employer may not ~~be required to~~ make
1844 contributions for prior service credit for any member, except
1845 that the employer shall pay the employer portion of
1846 contributions for any legislator who elects to withdraw from the
1847 Florida Retirement System and later rejoins the system and pays
1848 any employee contributions required in accordance with s.
1849 121.052(3)(d).

1850 Section 9. Subsection (1), paragraphs (f) and (j) of
1851 subsection (4), paragraphs (a) and (c) of subsection (5) and
1852 paragraph (d) of subsection (9) of section 121.091, Florida
1853 Statutes, are amended to read:

1854 121.091 Benefits payable under the system.—Benefits may not
1855 be paid under this section unless the member has terminated
1856 employment as provided in s. 121.021(39)(a) or begun
1857 participation in the Deferred Retirement Option Program as
1858 provided in subsection (13), and a proper application has been
1859 filed in the manner prescribed by the department. The department
1860 may cancel an application for retirement benefits when the
1861 member or beneficiary fails to timely provide the information
1862 and documents required by this chapter and the department's
1863 rules. The department shall adopt rules establishing procedures
1864 for application for retirement benefits and for the cancellation
1865 of such application when the required information or documents

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1866 are not received.

1867 (1) NORMAL RETIREMENT BENEFIT.—Upon attaining his or her
1868 normal retirement date, the member, upon application to the
1869 administrator, shall receive a monthly benefit which shall begin
1870 to accrue on the first day of the month of retirement and be
1871 payable on the last day of that month and each month thereafter
1872 during his or her lifetime. The normal retirement benefit,
1873 including any past or additional retirement credit, may not
1874 exceed 100 percent of the average final compensation. The amount
1875 of monthly benefit shall be calculated as the product of A and
1876 B, subject to the adjustment of C, if applicable, as set forth
1877 below:

1878 (a)1. For creditable years of Regular Class service, A is
1879 1.60 percent of the member's average final compensation, up to
1880 the member's normal retirement date. Upon completion of the
1881 first year after the normal retirement date, A is 1.63 percent
1882 of the member's average final compensation. Following the second
1883 year after the normal retirement date, A is 1.65 percent of the
1884 member's average final compensation. Following the third year
1885 after the normal retirement date, and for subsequent years, A is
1886 1.68 percent of the member's average final compensation.

1887 2. For creditable years of special risk service, A is:

1888 a. Two percent of the member's average final compensation
1889 for all creditable years prior to October 1, 1974;

1890 b. Three percent of the member's average final compensation
1891 for all creditable years after September 30, 1974, and before
1892 October 1, 1978;

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1893	c. Two percent of the member's average final compensation	
1894	for all creditable years after September 30, 1978, and before	
1895	January 1, 1989;	
1896	d. Two and two-tenths percent of the member's final monthly	
1897	compensation for all creditable years after December 31, 1988,	
1898	and before January 1, 1990;	
1899	e. Two and four-tenths percent of the member's average	
1900	final compensation for all creditable years after December 31,	
1901	1989, and before January 1, 1991;	
1902	f. Two and six-tenths percent of the member's average final	
1903	compensation for all creditable years after December 31, 1990,	
1904	and before January 1, 1992;	
1905	g. Two and eight-tenths percent of the member's average	
1906	final compensation for all creditable years after December 31,	
1907	1991, and before January 1, 1993;	
1908	h. Three percent of the member's average final compensation	
1909	for all creditable years after December 31, 1992, and before	
1910	<u>July 1, 2011</u> ; and	
1911	i. Three percent of the member's average final compensation	
1912	for all creditable years of service after September 30, 1978,	
1913	and before January 1, 1993, for any special risk member who	
1914	retires after July 1, 2000, or any member of the Special Risk	
1915	Administrative Support Class entitled to retain the special risk	
1916	normal retirement date who was a member of the Special Risk	
1917	Class during the time period and who retires after July 1, 2000.	
1918	<u>j. Two percent of the member's average final compensation</u>	
1919	<u>for all creditable years after June 30, 2011.</u>	

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1920 3.a. For creditable years of Senior Management Service
1921 Class service after January 31, 1987, and before July 1, 2011, A
1922 is 2 percent;

1923 b. For creditable years of Senior Management Service Class
1924 service after June 30, 2011, A is equal to the percentage
1925 provided in subparagraph (a)1. of this subsection of the
1926 member's average final compensation;

1927 4.a. For creditable years of Elected Officers' Class
1928 service before July 1, 2011, as a Supreme Court Justice,
1929 district court of appeal judge, circuit judge, or county court
1930 judge, A is 3 1/3 percent of the member's average final
1931 compensation, and for all other creditable service before July
1932 1, 2011, in such class, A is 3 percent of average final
1933 compensation;

1934 b. For creditable years of Elected Officers' Class service
1935 after June 30, 2011, A is equal to the percentage provided in
1936 subparagraph (a)1. of this subsection of the member's average
1937 final compensation.

1938 (b) B is the number of the member's years and any
1939 fractional part of a year of creditable service earned
1940 subsequent to November 30, 1970; and

1941 (c) C is the normal retirement benefit credit brought
1942 forward as of November 30, 1970, by a former member of an
1943 existing system. Such normal retirement benefit credit shall be
1944 determined as the product of X and Y when X is the percentage of
1945 average final compensation which the member would have been
1946 eligible to receive if the member had attained his or her normal

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1947	retirement date as of November 30, 1970, all in accordance with	
1948	the existing system under which the member is covered on	
1949	November 30, 1970, and Y is average final compensation as	
1950	defined in s. 121.021(24). However, any member of an existing	
1951	retirement system who is eligible to retire and who does retire,	
1952	become disabled, or die prior to April 15, 1971, may have his or	
1953	her retirement benefits calculated on the basis of the best 5 of	
1954	the last 10 years of service.	
1955	(d) A member's average final compensation shall be	
1956	determined by formula to obtain the coverage for the 5 highest	
1957	fiscal years' salaries, calculated as provided by rule.	
1958	(4) DISABILITY RETIREMENT BENEFIT.—	
1959	(f) Computation of disability retirement benefit.—The	
1960	amount of each monthly payment shall be computed in the same	
1961	manner as for a normal retirement benefit, in accordance with	
1962	subsection (1), but shall be based on disability option	
1963	actuarial equivalency tables and the average monthly	
1964	compensation and creditable service of the member as of the	
1965	disability retirement date, subject to the following conditions:	
1966	1. If the member's disability occurred in the line of duty,	
1967	the monthly Option 1 benefit shall not be less than:	
1968	a. Forty-two percent of average monthly compensation as of	
1969	the disability retirement date; or	
1970	b. Sixty-five percent of the average monthly compensation	
1971	as of the disability retirement date for a member of the special	
1972	risk class who retires on or after July 1, 2000, <u>but prior to</u>	
1973	<u>July 1, 2011</u> ; or	

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1974 | c. Fifty percent of the average monthly compensation as of
1975 | the disability retirement date for a member of the special risk
1976 | class who retires on or after July 1, 2011; or

1977 | 2. If the member's disability occurred other than in the
1978 | line of duty, the monthly Option 1 benefit shall not be less
1979 | than 25 percent of average monthly compensation as of the
1980 | disability retirement date.

1981 | (j) Disability retirement of justice or judge by order of
1982 | Supreme Court.—

1983 | 1.a. If a member is a justice of the Supreme Court, judge
1984 | of a district court of appeal, circuit judge, or judge of a
1985 | county court who has served for 6 years or more as an elected
1986 | constitutional judicial officer, including service as a judicial
1987 | officer in any court abolished pursuant to Art. V of the State
1988 | Constitution, and who is retired for disability by order of the
1989 | Supreme Court upon recommendation of the Judicial Qualifications
1990 | Commission pursuant to the provisions of Art. V of the State
1991 | Constitution, the member's Option 1 monthly benefit as provided
1992 | in subparagraph (6) (a)1. shall not be less than two-thirds of
1993 | his or her monthly compensation as of the member's disability
1994 | retirement date. Such a member may alternatively elect to
1995 | receive a disability retirement benefit under any other option
1996 | as provided in paragraph (6) (a). This sub-subparagraph applies
1997 | to any member retiring prior to July 1, 2011.

1998 | b. Effective July 1, 2011, and applicable to any member
1999 | retiring on or after July ,1 2011, if a member is a justice of
2000 | the Supreme Court, judge of a district court of appeal, circuit

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2001	<u>judge, or judge of a county court who has served for 6 years or</u>	
2002	<u>more as an elected constitutional judicial officer, including</u>	
2003	<u>service as a judicial officer in any court abolished pursuant to</u>	
2004	<u>Art. V of the State Constitution, and who is retired for</u>	
2005	<u>disability by order of the Supreme Court upon recommendation of</u>	
2006	<u>the Judicial Qualifications Commission pursuant to the</u>	
2007	<u>provisions of Art. V of the State Constitution, the member's</u>	
2008	<u>Option 1 monthly benefit as provided in subparagraph (6) (a)1.</u>	
2009	<u>shall not be less than one-third of his or her monthly</u>	
2010	<u>compensation as of the member's disability retirement date. Such</u>	
2011	<u>a member may alternatively elect to receive a disability</u>	
2012	<u>retirement benefit under any other option as provided in</u>	
2013	<u>paragraph (6) (a).</u>	
2014	2. Should any justice or judge who is a member of the	
2015	Florida Retirement System be retired for disability by order of	
2016	the Supreme Court upon recommendation of the Judicial	
2017	Qualifications Commission pursuant to the provisions of Art. V	
2018	of the State Constitution, then all contributions to his or her	
2019	account and all contributions made on his or her behalf by the	
2020	employer shall be transferred to and deposited in the General	
2021	Revenue Fund of the state, and there is hereby appropriated	
2022	annually out of the General Revenue Fund, to be paid into the	
2023	Florida Retirement System Fund, an amount necessary to pay the	
2024	benefits of all justices and judges retired from the Florida	
2025	Retirement System pursuant to Art. V of the State Constitution.	
2026	(5) TERMINATION BENEFITS.—A member whose employment is	
2027	terminated prior to retirement retains membership rights to	

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2028 | previously earned member-noncontributory service credit, and to
2029 | member-contributory service credit, if the member leaves the
2030 | member contributions on deposit in his or her retirement
2031 | account. If a terminated member receives a refund of member
2032 | contributions, such member may reinstate membership rights to
2033 | the previously earned service credit represented by the refund
2034 | by completing 1 year of creditable service and repaying the
2035 | refunded member contributions, plus interest.

2036 | (a) A member whose employment is terminated for any reason
2037 | other than death or retirement prior to becoming vested is
2038 | entitled to the return of his or her accumulated contributions
2039 | as of the date of termination. Effective July 1, 2011, upon
2040 | termination of employment from all participating employers for 3
2041 | calendar months for any reason other than retirement pursuant to
2042 | s. 121.021(39)(c), a member may receive a refund of all
2043 | contributions he or she has made to the pension plan, subject to
2044 | the restrictions otherwise provided in this chapter. Partial
2045 | refunds are not permitted. The refund shall not include any
2046 | interest earnings on the contributions for a member of the
2047 | pension plan. Employer contributions made on behalf of the
2048 | member are not refundable. A member may not receive a refund of
2049 | employee contributions if a pending or an approved qualified
2050 | domestic relations order is filed against his or her retirement
2051 | account. By obtaining a refund of contributions, a member waives
2052 | all rights under the Florida Retirement System and the health
2053 | insurance subsidy to the service credit represented by the
2054 | refunded contributions, except the right to purchase his or her

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2055 prior service credit in accordance with s. 121.081(2).
2056 (c) In lieu of the deferred monthly benefit provided in
2057 paragraph (b), the terminated member may elect to receive a
2058 lump-sum amount equal to his or her accumulated contributions as
2059 of the date of termination. Effective July 1, 2011, upon
2060 termination of employment from all participating employers for 3
2061 calendar months for any reason other than retirement pursuant to
2062 s. 121.021(39)(c), a member may receive a refund of all
2063 contributions he or she has made to the pension plan, subject to
2064 the restrictions otherwise provided in this chapter. Partial
2065 refunds are not permitted. The refund shall not include any
2066 interest earnings on the contributions for a member of the
2067 pension plan. Employer contributions made on behalf of the
2068 member are not refundable. A member may not receive a refund of
2069 employee contributions if a pending or an approved qualified
2070 domestic relations order is filed against his or her retirement
2071 account. By obtaining a refund of contributions, a member waives
2072 all rights under the Florida Retirement System and the health
2073 insurance subsidy to the service credit represented by the
2074 refunded contributions, except the right to purchase his or her
2075 prior service credit in accordance with s. 121.081(2).

2076 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

2077 (d) The provisions of this subsection apply to retirees, as
2078 defined in s. 121.4501(2), of the investment plan ~~Public~~
2079 ~~Employee Optional Retirement Program~~, subject to the following
2080 conditions:

2081 1. A retiree ~~The retirees~~ may not be reemployed with an

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2082 employer participating in the Florida Retirement System until
2083 such person has been retired for 6 calendar months.

2084 2. A retiree employed in violation of this subsection and
2085 an employer that employs or appoints such person are jointly and
2086 severally liable for reimbursement of any benefits paid to the
2087 retirement trust fund from which the benefits were paid,
2088 including the Florida Retirement System Trust Fund and the
2089 Investment Plan ~~Public Employee Optional Retirement Program~~
2090 Trust Fund, as appropriate. The employer must have a written
2091 statement from the retiree that he or she is not retired from a
2092 state-administered retirement system.

2093 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and
2094 subject to this section, the Deferred Retirement Option Program,
2095 hereinafter referred to as DROP, is a program under which an
2096 eligible member of the Florida Retirement System may elect to
2097 participate, deferring receipt of retirement benefits while
2098 continuing employment with his or her Florida Retirement System
2099 employer. The deferred monthly benefits shall accrue in the
2100 Florida Retirement System on behalf of the participant, plus
2101 interest compounded monthly, for the specified period of the
2102 DROP participation, as provided in paragraph (c). Upon
2103 termination of employment, the participant shall receive the
2104 total DROP benefits and begin to receive the previously
2105 determined normal retirement benefits. Participation in the DROP
2106 does not guarantee employment for the specified period of DROP.
2107 Participation in DROP by an eligible member beyond the initial
2108 60-month period as authorized in this subsection shall be on an

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2109 annual contractual basis for all participants.

2110 (a) *Eligibility of member to participate in DROP.*—All
2111 active Florida Retirement System members in a regularly
2112 established position, and all active members of the Teachers'
2113 Retirement System established in chapter 238 or the State and
2114 County Officers' and Employees' Retirement System established in
2115 chapter 122, which are consolidated within the Florida
2116 Retirement System under s. 121.011, are eligible to elect
2117 participation in DROP if:

2118 1. The member is not a renewed member under s. 121.122 or a
2119 member of the State Community College System Optional Retirement
2120 Program under s. 121.051, the Senior Management Service Optional
2121 Annuity Program under s. 121.055, or the optional retirement
2122 program for the State University System under s. 121.35.

2123 2. Except as provided in subparagraph 6., election to
2124 participate is made within 12 months immediately following the
2125 date on which the member first reaches normal retirement date,
2126 or, for a member who reaches normal retirement date based on
2127 service before he or she reaches age 62, or age 55 for Special
2128 Risk Class members, election to participate may be deferred to
2129 the 12 months immediately following the date the member attains
2130 age 57, or age 52 for Special Risk Class members. A member who
2131 delays DROP participation during the 12-month period immediately
2132 following his or her maximum DROP deferral date, except as
2133 provided in subparagraph 6., loses a month of DROP participation
2134 for each month delayed. A member who fails to make an election
2135 within the 12-month limitation period forfeits all rights to

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2136 participate in DROP. The member shall advise his or her employer
2137 and the division in writing of the date DROP begins. The
2138 beginning date may be subsequent to the 12-month election period
2139 but must be within the original 60-month participation period
2140 provided in subparagraph (b)1. When establishing eligibility of
2141 the member to participate in DROP, the member may elect to
2142 include or exclude any optional service credit purchased by the
2143 member from the total service used to establish the normal
2144 retirement date. A member who has dual normal retirement dates
2145 is eligible to elect to participate in DROP after attaining
2146 normal retirement date in either class.

2147 3. The employer of a member electing to participate in
2148 DROP, or employers if dually employed, shall acknowledge in
2149 writing to the division the date the member's participation in
2150 DROP begins and the date the member's employment and DROP
2151 participation will terminate.

2152 4. Simultaneous employment of a participant by additional
2153 Florida Retirement System employers subsequent to the
2154 commencement of participation in DROP is permissible if such
2155 employers acknowledge in writing a DROP termination date no
2156 later than the participant's existing termination date or the
2157 maximum participation period provided in subparagraph (b)1.

2158 5. A DROP participant may change employers while
2159 participating in DROP, subject to the following:

2160 a. A change of employment must take place without a break
2161 in service so that the member receives salary for each month of
2162 continuous DROP participation. If a member receives no salary

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2163 during a month, DROP participation shall cease unless the
2164 employer verifies a continuation of the employment relationship
2165 for such participant pursuant to s. 121.021(39)(b).

2166 b. Such participant and new employer shall notify the
2167 division of the identity of the new employer on forms required
2168 by the division.

2169 c. The new employer shall acknowledge, in writing, the
2170 participant's DROP termination date, which may be extended but
2171 not beyond the maximum participation period provided in
2172 subparagraph (b)1., shall acknowledge liability for any
2173 additional retirement contributions and interest required if the
2174 participant fails to timely terminate employment, and is subject
2175 to the adjustment required in sub-subparagraph (c)5.d.

2176 6. Effective July 1, 2001, for instructional personnel as
2177 defined in s. 1012.01(2), election to participate in DROP may be
2178 made at any time following the date on which the member first
2179 reaches normal retirement date. The member shall advise his or
2180 her employer and the division in writing of the date on which
2181 DROP begins. When establishing eligibility of the member to
2182 participate in DROP for the 60-month participation period
2183 provided in subparagraph (b)1., the member may elect to include
2184 or exclude any optional service credit purchased by the member
2185 from the total service used to establish the normal retirement
2186 date. A member who has dual normal retirement dates is eligible
2187 to elect to participate in either class.

2188 7. The effective date of DROP participation is prior to
2189 July 1, 2011.

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2190 (b) *Participation in DROP.*—
2191 1. An eligible member may elect to participate in DROP for
2192 a period not to exceed a maximum of 60 calendar months. However,
2193 members who are instructional personnel employed by the Florida
2194 School for the Deaf and the Blind and authorized by the Board of
2195 Trustees of the Florida School for the Deaf and the Blind, who
2196 are instructional personnel as defined in s. 1012.01(2)(a)-(d)
2197 in grades K-12 and authorized by the district school
2198 superintendent, or who are instructional personnel as defined in
2199 s. 1012.01(2)(a) employed by a developmental research school and
2200 authorized by the school's director, or if the school has no
2201 director, by the school's principal, may participate in DROP for
2202 up to 36 calendar months beyond the 60-month period.
2203 2. Upon deciding to participate in DROP, the member shall
2204 submit, on forms required by the division:
2205 a. A written election to participate in DROP;
2206 b. Selection of DROP participation and termination dates
2207 that satisfy the limitations stated in paragraph (a) and
2208 subparagraph 1. The termination date must be in a binding letter
2209 of resignation to the employer establishing a deferred
2210 termination date. The member may change the termination date
2211 within the limitations of subparagraph 1., but only with the
2212 written approval of the employer;
2213 c. A properly completed DROP application for service
2214 retirement as provided in this section; and
2215 d. Any other information required by the division.
2216 3. The DROP participant is a retiree under the Florida

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2217	Retirement System for all purposes, except for paragraph (5) (f)	
2218	and subsection (9) and ss. 112.3173, 112.363, 121.053, and	
2219	121.122. DROP participation is final and may not be canceled by	
2220	the participant after the first payment is credited during the	
2221	DROP participation period. However, participation in DROP does	
2222	not alter the participant's employment status, and the member is	
2223	not deemed retired from employment until his or her deferred	
2224	resignation is effective and termination occurs as defined in s.	
2225	121.021.	
2226	4. Elected officers are eligible to participate in DROP	
2227	subject to the following:	
2228	a. An elected officer who reaches normal retirement date	
2229	during a term of office may defer the election to participate	
2230	until the next succeeding term in that office. An elected	
2231	officer who exercises this option may participate in DROP for up	
2232	to 60 calendar months or no longer than the succeeding term of	
2233	office, whichever is less.	
2234	b. An elected or a nonelected participant may run for a	
2235	term of office while participating in DROP and, if elected,	
2236	extend the DROP termination date accordingly; however, if such	
2237	additional term of office exceeds the 60-month limitation	
2238	established in subparagraph 1., and the officer does not resign	
2239	from office within such 60-month limitation, the retirement and	
2240	the participant's DROP is null and void as provided in sub-	
2241	subparagraph (c)5.d.	
2242	c. An elected officer who is dually employed and elects to	
2243	participate in DROP must terminate all employment relationships	

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2244 as provided in s. 121.021(39) for the nonelected position within
2245 the original 60-month period or maximum participation period as
2246 provided in subparagraph 1. For DROP participation ending:

2247 (I) Before July 1, 2010, the officer may continue
2248 employment as an elected officer as provided in s. 121.053. The
2249 elected officer shall be enrolled as a renewed member in the
2250 Elected Officers' Class or the Regular Class, as provided in ss.
2251 121.053 and 121.122, on the first day of the month after
2252 termination of employment in the nonelected position and
2253 termination of DROP. Distribution of the DROP benefits shall be
2254 made as provided in paragraph (c).

2255 (II) On or after July 1, 2010, the officer may continue
2256 employment as an elected officer but must defer termination as
2257 provided in s. 121.053.

2258 (c) *Benefits payable under DROP.*—

2259 1. Effective on the date of DROP participation, the
2260 member's initial normal monthly benefit, including creditable
2261 service, optional form of payment, and average final
2262 compensation, and the effective date of retirement are fixed.
2263 The beneficiary established under the Florida Retirement System
2264 is the beneficiary eligible to receive any DROP benefits payable
2265 if the DROP participant dies before completing the period of
2266 DROP participation. If a joint annuitant predeceases the member,
2267 the member may name a beneficiary to receive accumulated DROP
2268 benefits payable. The retirement benefit, the annual cost of
2269 living adjustments provided in s. 121.101, and interest accrue
2270 monthly in the Florida Retirement System Trust Fund. The

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2271 interest accrues at an effective annual rate of 6.5 percent
2272 compounded monthly, on the prior month's accumulated ending
2273 balance, up to the month of termination or death, except as
2274 provided in s. 121.053(7).

2275 2. Each employee who elects to participate in DROP may
2276 elect to receive a lump-sum payment for accrued annual leave
2277 earned in accordance with agency policy upon beginning
2278 participation in DROP. The accumulated leave payment certified
2279 to the division upon commencement of DROP shall be included in
2280 the calculation of the member's average final compensation. The
2281 employee electing the lump-sum payment is not eligible to
2282 receive a second lump-sum payment upon termination, except to
2283 the extent the employee has earned additional annual leave
2284 which, combined with the original payment, does not exceed the
2285 maximum lump-sum payment allowed by the employing agency's
2286 policy or rules. An early lump-sum payment shall be based on the
2287 hourly wage of the employee at the time he or she begins
2288 participation in DROP. If the member elects to wait and receive
2289 a lump-sum payment upon termination of DROP and termination of
2290 employment with the employer, any accumulated leave payment made
2291 at that time may not be included in the member's retirement
2292 benefit, which was determined and fixed by law when the employee
2293 elected to participate in DROP.

2294 3. The effective date of DROP participation and the
2295 effective date of retirement of a DROP participant shall be the
2296 first day of the month selected by the member to begin
2297 participation in DROP, provided such date is properly

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2298 established, with the written confirmation of the employer, and
2299 the approval of the division, on forms required by the division.

2300 4. Normal retirement benefits and any interest shall
2301 continue to accrue in DROP until the established termination
2302 date of DROP or until the participant terminates employment or
2303 dies prior to such date, except as provided in s. 121.053(7).
2304 Although individual DROP accounts shall not be established, a
2305 separate accounting of each participant's accrued benefits under
2306 DROP shall be calculated and provided to participants.

2307 5. At the conclusion of the participant's DROP, the
2308 division shall distribute the participant's total accumulated
2309 DROP benefits, subject to the following:

2310 a. The division shall receive verification by the
2311 participant's employer or employers that the participant has
2312 terminated all employment relationships as provided in s.
2313 121.021(39).

2314 b. The terminated DROP participant or, if deceased, the
2315 participant's named beneficiary, shall elect on forms provided
2316 by the division to receive payment of the DROP benefits in
2317 accordance with one of the options listed below. If a
2318 participant or beneficiary fails to elect a method of payment
2319 within 60 days after termination of DROP, the division shall pay
2320 a lump sum as provided in sub-sub-subparagraph (I).

2321 (I) Lump sum.—All accrued DROP benefits, plus interest,
2322 less withholding taxes remitted to the Internal Revenue Service,
2323 shall be paid to the DROP participant or surviving beneficiary.

2324 (II) Direct rollover.—All accrued DROP benefits, plus

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2325	interest, shall be paid from DROP directly to the custodian of	
2326	an eligible retirement plan as defined in s. 402(c)(8)(B) of the	
2327	Internal Revenue Code. However, in the case of an eligible	
2328	rollover distribution to the surviving spouse of a deceased	
2329	participant, an eligible retirement plan is an individual	
2330	retirement account or an individual retirement annuity as	
2331	described in s. 402(c)(9) of the Internal Revenue Code.	
2332	(III) Partial lump sum.—A portion of the accrued DROP	
2333	benefits shall be paid to DROP participant or surviving spouse,	
2334	less withholding taxes remitted to the Internal Revenue Service,	
2335	and the remaining DROP benefits must be transferred directly to	
2336	the custodian of an eligible retirement plan as defined in s.	
2337	402(c)(8)(B) of the Internal Revenue Code. However, in the case	
2338	of an eligible rollover distribution to the surviving spouse of	
2339	a deceased participant, an eligible retirement plan is an	
2340	individual retirement account or an individual retirement	
2341	annuity as described in s. 402(c)(9) of the Internal Revenue	
2342	Code. The proportions must be specified by the DROP participant	
2343	or surviving beneficiary.	
2344	c. The form of payment selected by the DROP participant or	
2345	surviving beneficiary must comply with the minimum distribution	
2346	requirements of the Internal Revenue Code.	
2347	d. A DROP participant who fails to terminate all employment	
2348	relationships as provided in s. 121.021(39) shall be deemed as	
2349	not retired, and the DROP election is null and void. Florida	
2350	Retirement System membership shall be reestablished	
2351	retroactively to the date of the commencement of DROP, and each	

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2352	employer with whom the participant continues employment must pay	
2353	to the Florida Retirement System Trust Fund the difference	
2354	between the DROP contributions paid in paragraph (i) and the	
2355	contributions required for the applicable Florida Retirement	
2356	System class of membership during the period the member	
2357	participated in DROP, plus 6.5 percent interest compounded	
2358	annually.	
2359	6. The retirement benefits of any DROP participant who	
2360	terminates all employment relationships as provided in s.	
2361	121.021(39) but is reemployed in violation of the reemployment	
2362	provisions of subsection (9) shall be suspended during those	
2363	months in which the retiree is in violation. Any retiree in	
2364	violation of this subparagraph and any employer that employs or	
2365	appoints such person without notifying the Division of	
2366	Retirement to suspend retirement benefits are jointly and	
2367	severally liable for any benefits paid during the reemployment	
2368	limitation period. The employer must have a written statement	
2369	from the retiree that he or she is not retired from a state-	
2370	administered retirement system. Any retirement benefits received	
2371	by a retiree while employed in violation of the reemployment	
2372	limitations must be repaid to the Florida Retirement System	
2373	Trust Fund, and his or her retirement benefits shall remain	
2374	suspended until payment is made. Benefits suspended beyond the	
2375	end of the reemployment limitation period apply toward repayment	
2376	of benefits received in violation of the reemployment	
2377	limitation.	
2378	7. The accrued benefits of any DROP participant, and any	

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2379 contributions accumulated under the program, are not subject to
2380 assignment, execution, attachment, or any legal process
2381 whatsoever, except for qualified domestic relations orders by a
2382 court of competent jurisdiction, income deduction orders as
2383 provided in s. 61.1301, and federal income tax levies.

2384 8. DROP participants are not eligible for disability
2385 retirement benefits as provided in subsection (4).

2386 (d) *Death benefits under DROP.*—

2387 1. Upon the death of a DROP participant, the named
2388 beneficiary is entitled to apply for and receive the accrued
2389 benefits in DROP as provided in sub-subparagraph (c)5.b.

2390 2. The normal retirement benefit accrued to DROP during the
2391 month of a participant's death is the final monthly benefit
2392 credited for such DROP participant.

2393 3. Eligibility to participate in DROP terminates upon death
2394 of the participant. If the participant dies on or after the
2395 effective date of enrollment in DROP, but before the first
2396 monthly benefit is credited to DROP, Florida Retirement System
2397 benefits are paid in accordance with subparagraph (7)(c)1. or
2398 subparagraph 2.

2399 4. A DROP participant's survivors are not eligible to
2400 receive Florida Retirement System death benefits as provided in
2401 paragraph (7)(d).

2402 (e) *Cost-of-living adjustment.*—On each July 1, the
2403 participant's normal retirement benefit shall be increased as
2404 provided in s. 121.101.

2405 (f) *Retiree health insurance subsidy.*—DROP participants are

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2406 not eligible to apply for the retiree health insurance subsidy
2407 payments as provided in s. 112.363 until such participants have
2408 terminated employment and participation in DROP.

2409 (g) *Renewed membership.*—DROP participants are not eligible
2410 for renewed membership in the Florida Retirement System under
2411 ss. 121.053 and 121.122 until all employment relationships are
2412 terminated as provided in s. 121.021(39).

2413 (h) *Employment limitation after DROP participation.*—Upon
2414 termination as defined in s. 121.021, DROP participants are
2415 subject to the same reemployment limitations as other retirees.
2416 Reemployment restrictions applicable to retirees as provided in
2417 subsection (9) do not apply to DROP participants until their
2418 employment and participation in DROP are terminated.

2419 (i) *Contributions.*—

2420 1. All employers paying the salary of a DROP participant
2421 filling a regularly established position shall contribute 8.0
2422 percent of such participant's gross compensation for the period
2423 of July 1, 2002, through June 30, 2003, and the percentage of
2424 such compensation required by s. 121.71 thereafter, which shall
2425 constitute the entire employer DROP contribution with respect to
2426 such participant. Such contributions, payable to the Florida
2427 Retirement System Trust Fund in the same manner as required in
2428 s. 121.071, must be made as appropriate for each pay period and
2429 are in addition to contributions required for social security
2430 and the Retiree Health Insurance Subsidy Trust Fund. Such
2431 employer, social security, and health insurance subsidy
2432 contributions are not included in DROP.

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2433 2. The employer shall, in addition to subparagraph 1., also
2434 withhold one-half of the entire social security contribution
2435 required for the participant. Contributions for social security
2436 by each participant and each employer, in the amount required
2437 for social security coverage as provided by the federal Social
2438 Security Act, are in addition to contributions specified in
2439 subparagraph 1.

2440 3. All employers paying the salary of a DROP participant
2441 filling a regularly established position shall contribute the
2442 percent of such participant's gross compensation required in s.
2443 121.071(4), which constitutes the employer's health insurance
2444 subsidy contribution with respect to such participant. Such
2445 contributions must be deposited by the administrator in the
2446 Retiree Health Insurance Subsidy Trust Fund.

2447 (j) *Forfeiture of retirement benefits.*—This section does
2448 not remove DROP participants from the scope of s. 8(d), Art. II
2449 of the State Constitution, s. 112.3173, and paragraph (5)(f).
2450 DROP participants who commit a specified felony offense while
2451 employed are subject to forfeiture of all retirement benefits,
2452 including DROP benefits, pursuant to those provisions of law.

2453 (k) *Administration of program.*—The division shall adopt
2454 rules as necessary for the effective and efficient
2455 administration of this subsection. The division is not required
2456 to advise members of the federal tax consequences of an election
2457 related to the DROP but may advise members to seek independent
2458 advice.

2459 (l) *DROP closed to new participants.*—Effective July 1,

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2460 | 2011, DROP is closed to new participants. Only members whose
2461 | DROP effective date is prior to July 1, 2011 may participate in
2462 | DROP.

2463 | Section 10. Section 121.101, Florida Statutes, is amended
2464 | to read:

2465 | 121.101 Cost-of-living adjustment of benefits.—

2466 | (1) The purpose of this section is to provide cost-of-
2467 | living adjustments to the monthly benefits payable to ~~all~~
2468 | retired members of state-supported retirement systems.

2469 | (2) As used in this section, "initial benefit" means the
2470 | first monthly benefit payable to a retiree or beneficiary in
2471 | accordance with the laws governing the determination of such
2472 | benefit at the time of retirement or earlier death.

2473 | (3) Commencing July 1, 1987, the benefit of each retiree
2474 | and annuitant retiring prior to July 1, 2011, shall be adjusted
2475 | on each July 1 thereafter, as follows:

2476 | (a) For those retirees and annuitants who have never
2477 | received a cost-of-living adjustment under this section, the
2478 | amount of the monthly benefit payable for the 12-month period
2479 | commencing on the adjustment date shall be the amount of the
2480 | member's initial benefit plus an amount equal to a percentage of
2481 | the member's initial benefit; this percentage is derived by
2482 | dividing the number of months the member has received an initial
2483 | benefit by 12, and multiplying the result by 3.

2484 | (b) For those retirees and annuitants who have received a
2485 | cost-of-living adjustment under this subsection ~~section,~~ the
2486 | adjusted monthly benefit shall be the amount of the monthly

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2487 benefit being received on June 30 immediately preceding the
2488 adjustment date plus an amount equal to 3 percent of this
2489 benefit.

2490 (4) For members retiring effective on or after July 1,
2491 2011, the benefit of each retiree and annuitant shall be
2492 adjusted on each July 1 thereafter, as follows:

2493 (a) For those retirees and annuitants who have never
2494 received a cost-of-living adjustment under this subsection, the
2495 amount of the monthly benefit payable for the 12-month period
2496 commencing on the adjustment date shall be the amount of the
2497 member's initial benefit plus an amount equal to a percentage of
2498 the member's initial benefit; this percentage is derived by
2499 dividing the number of months the member has received an initial
2500 benefit by 12, and multiplying the result by the factor
2501 calculated pursuant to paragraph (c).

2502 (b) For those retirees and annuitants who have received a
2503 cost-of-living adjustment under this subsection ~~section~~, the
2504 adjusted monthly benefit shall be the amount of the monthly
2505 benefit being received on June 30 immediately preceding the
2506 adjustment date plus an amount determined by multiplying the
2507 benefit by the factor calculated pursuant to paragraph (c).

2508 (c) The department shall calculate a cost of living factor
2509 for each retiree and beneficiary retiring after June 30, 2011.
2510 This factor will equal the product of 3 percent multiplied by
2511 the quotient of the sum of the member's service credit earned
2512 for service prior to July 1, 2011, divided by the sum of the
2513 member's total service credit earned.

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2514 | (5)~~(4)~~ In no event shall a retiree's or annuitant's monthly
2515 | retirement benefit be reduced, by the application of this
2516 | section, below the benefit he or she was receiving as of July 1,
2517 | 1970, or at the date of retirement, if later, nor shall the
2518 | benefit be reduced below the minimum monthly benefit provided
2519 | him or her under s. 112.362.

2520 | (6)~~(5)~~ The initial benefit of a retiree who elected an
2521 | optional form of benefit payment which provided for a percentage
2522 | of the benefit to be continued to a beneficiary after his or her
2523 | death shall be reduced at the death of the retiree by
2524 | application of the stated percentage.

2525 | (7)~~(6)~~ The funds necessary to pay for the cost-of-living
2526 | adjustment provided by this section are hereby annually
2527 | appropriated from the System Trust Fund.

2528 | (8)~~(7)~~ The purpose of this subsection is to establish a
2529 | supplemental cost-of-living adjustment for certain retirees and
2530 | beneficiaries who receive monthly retirement benefits under the
2531 | provisions of this chapter and the existing systems consolidated
2532 | therein, s. 112.05 for certain state officers and employees, and
2533 | s. 238.171 for certain elderly incapacitated teachers.

2534 | (a) On July 1, 1996, each such retiree retiring prior to
2535 | July 1, 1976, and each annuitant of such a retiree, who had 25
2536 | or more years of service, who is neither receiving nor eligible
2537 | to receive social security benefits, and whose monthly benefit
2538 | as of July 1, 1996, is less than \$1,000, shall, upon application
2539 | to the administrator, receive a supplemental cost-of-living
2540 | adjustment. Such supplemental cost-of-living adjustment shall be

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2541 applied by adjusting the retiree's or annuitant's monthly
2542 benefit to an amount equal to the sum of the monthly benefit
2543 being received on July 1, 1996, plus a percentage of the July 1,
2544 1996, benefit. This percentage shall equal the product of 1
2545 percent multiplied by the number of complete years that have
2546 elapsed between the member's date of retirement and July 1,
2547 1996. However, if the supplemental cost-of-living adjustment
2548 plus the July 1, 1996, monthly benefit would exceed \$1,000, the
2549 adjustment shall be reduced to an amount which would result in a
2550 monthly benefit equal to \$1,000.

2551 (b) Application for the supplemental cost-of-living
2552 adjustment provided by this subsection shall include
2553 certification by the retiree or annuitant that he or she is not
2554 receiving, and is not eligible to receive, social security
2555 benefits and shall include written authorization for the
2556 department to have access to information from the Social
2557 Security Administration concerning his or her entitlement to, or
2558 eligibility for, social security benefits. Such supplemental
2559 cost-of-living adjustment shall not be paid unless and until the
2560 application requirements of this paragraph are met.

2561 Section 11. Subsection (1) of section 121.121, Florida
2562 Statutes, is amended to read:

2563 121.121 Authorized leaves of absence.—

2564 (1) A member may purchase creditable service for up to 2
2565 work years of authorized leaves of absence, including any leaves
2566 of absence covered under the Family Medical Leave Act, if:

2567 (a) The member has completed a minimum of 6 years of

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2568 creditable service, excluding periods for which a leave of
2569 absence was authorized;

2570 (b) The leave of absence is authorized in writing by the
2571 employer of the member and approved by the administrator;

2572 (c) The member returns to active employment performing
2573 service with a Florida Retirement System employer in a regularly
2574 established position immediately upon termination of the leave
2575 of absence and remains on the employer's payroll for 1 calendar
2576 month, except that a member who retires on disability while on a
2577 medical leave of absence shall not be required to return to
2578 employment. A member whose work year is less than 12 months and
2579 whose leave of absence terminates between school years is
2580 eligible to receive credit for the leave of absence as long as
2581 he or she returns to the employment of his or her employer at
2582 the beginning of the next school year and remains on the
2583 employer's payroll for 1 calendar month; and

2584 (d) The member makes the required contributions for service
2585 credit during the leave of absence, which shall be 8 percent
2586 until January 1, 1975, and 9 percent thereafter of his or her
2587 rate of monthly compensation in effect immediately prior to the
2588 commencement of such leave for each month of such period, plus 4
2589 percent interest until July 1, 1975, and 6.5 percent interest
2590 thereafter on such contributions, compounded annually each June
2591 30 from the due date of the contribution to date of payment.
2592 Effective July 1, 1980, any leave of absence purchased pursuant
2593 to this section shall be at the contribution rates specified in
2594 s. 121.071 or s. 121.71 in effect at the time the leave is

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2595 granted for the class of membership from which the leave of
2596 absence was granted; however, any member who purchased leave-of-
2597 absence credit prior to July 1, 1980, for a leave of absence
2598 from a position in a class other than the regular membership
2599 class, may pay the appropriate additional contributions plus
2600 compound interest thereon and receive creditable service for
2601 such leave of absence in the membership class from which the
2602 member was granted the leave of absence.

2603

2604 Effective July 1, 2011, any leave of absence purchased by the
2605 member pursuant to this section shall be at the employee and
2606 employer contribution rates specified in s. 121.71 in effect
2607 during the leave for the class of membership from which the
2608 leave of absence was granted.

2609 Section 12. Section 121.125, Florida Statutes, is amended
2610 to read:

2611 121.125 Credit for workers' compensation payment periods.—A
2612 member of the retirement system created by this chapter who has
2613 been eligible or becomes eligible to receive workers'
2614 compensation payments for an injury or illness occurring during
2615 his or her employment while a member of any state retirement
2616 system shall, upon return to active employment with a covered
2617 employer for 1 calendar month or upon approval for disability
2618 retirement in accordance with s. 121.091(4), receive full
2619 retirement credit for the period prior to such return to active
2620 employment or disability retirement for which the workers'
2621 compensation payments were received. However, no member may

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2622 receive retirement credit for any such period occurring after
2623 the earlier of the date of maximum medical improvement as
2624 defined in s. 440.02 or the date termination has occurred as
2625 defined in s. 121.021(39). The employer of record at the time of
2626 the worker's compensation injury or illness shall make the
2627 required employee and employer retirement contributions based on
2628 the member's rate of monthly compensation immediately prior to
2629 his or her receiving workers' compensation payments for
2630 retirement credit received by the member. The employer of record
2631 at the time of the worker's compensation injury or illness shall
2632 be assessed by the division a penalty of 1 percent of the
2633 contributions on all contributions not paid on the first payroll
2634 report after the member becomes eligible to receive credit. This
2635 delinquent assessment may not be waived.

2636 Section 13. Paragraphs (g) and (i) of subsection (3),
2637 paragraphs (a) and (e) of subsection (4), and subsection (5) of
2638 section 121.35, Florida Statutes, are amended to read:

2639 121.35 Optional retirement program for the State University
2640 System.—

2641 (3) ELECTION OF OPTIONAL PROGRAM.—

2642 (g) An eligible employee who is a member of the Florida
2643 Retirement System at the time of election to participate in the
2644 optional retirement program shall retain all retirement service
2645 credit earned under the Florida Retirement System, at the rate
2646 earned. ~~No~~ Additional service credit in the Florida Retirement
2647 System may not shall be earned while the employee participates
2648 in the optional program, and ~~nor shall~~ the employee is not be

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2649 eligible for disability retirement under the Florida Retirement
 2650 System. An eligible employee may transfer from the Florida
 2651 Retirement System to his or her accounts under the State
 2652 University System Optional Retirement Program a sum representing
 2653 the present value of the employee's accumulated benefit
 2654 obligation under ~~the defined benefit program of~~ the Florida
 2655 Retirement System pension plan for any service credit accrued
 2656 from the employee's first eligible transfer date to the optional
 2657 retirement program through the actual date of such transfer, if
 2658 such service credit was earned ~~in the period~~ from July 1, 1984,
 2659 through December 31, 1992. The present value of the employee's
 2660 accumulated benefit obligation shall be calculated as described
 2661 in s. 121.4501(3) ~~s. 121.4501(3)(c)2.~~ Upon ~~such~~ transfer, all
 2662 ~~such~~ service credit ~~previously~~ earned under the ~~defined benefit~~
 2663 ~~program~~ of the Florida Retirement System pension plan during
 2664 this period is ~~shall be~~ nullified for purposes of entitlement to
 2665 a future benefit under the ~~defined benefit program~~ of the
 2666 Florida Retirement System pension plan.

2667 (i) Effective January 1, 2008, through December 31, 2008,
 2668 except for an employee who is a mandatory participant of the
 2669 State University System Optional Retirement Program, an employee
 2670 who has elected to participate in the State University System
 2671 Optional Retirement Program shall have one opportunity, at the
 2672 employee's discretion, to choose to transfer from this program
 2673 to ~~the defined benefit program of~~ the Florida Retirement System
 2674 pension plan or to the investment plan ~~Public Employee Optional~~
 2675 ~~Retirement Program~~, subject to the terms of the applicable

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2676 contracts of the State University System Optional Retirement
2677 Program.

2678 1. If the employee chooses to move to the investment plan
2679 ~~Public Employee Optional Retirement program~~, any contributions,
2680 interest, and earnings creditable to the employee under the
2681 State University System Optional Retirement Program must ~~shall~~
2682 be retained by the employee in the State University System
2683 Optional Retirement Program, and the applicable provisions of s.
2684 121.4501(4) shall govern the election.

2685 2. If the employee chooses to move to the pension plan
2686 ~~defined benefit program~~ of the Florida Retirement System, the
2687 employee shall receive service credit equal to his or her years
2688 of service under the State University System Optional Retirement
2689 Program.

2690 a. The cost for such credit must be in ~~shall be~~ an amount
2691 representing the actuarial accrued liability for the affected
2692 period of service. The cost must ~~shall~~ be calculated using the
2693 discount rate and other relevant actuarial assumptions that were
2694 used to value the Florida Retirement System pension ~~defined~~
2695 ~~benefit~~ plan liabilities in the most recent actuarial valuation.
2696 The calculation must ~~shall~~ include any service already
2697 maintained under the pension ~~defined benefit~~ plan in addition to
2698 the years under the State University System Optional Retirement
2699 Program. The actuarial accrued liability of any service already
2700 maintained under the pension ~~defined benefit~~ plan must ~~shall~~ be
2701 applied as a credit to total cost resulting from the
2702 calculation. The division shall ensure that the transfer sum is

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2703 prepared using a formula and methodology certified by an
2704 enrolled actuary.

2705 b. The employee must transfer from his or her State
2706 University System Optional Retirement Program account, and from
2707 other employee moneys as necessary, a sum representing the
2708 actuarial accrued liability immediately following the time of
2709 such movement, determined assuming that attained service equals
2710 the sum of service in the pension plan ~~defined benefit program~~
2711 and service in the State University System Optional Retirement
2712 Program.

2713 (4) CONTRIBUTIONS.—

2714 (a)1. Through June 30, 2001, each employer shall contribute
2715 on behalf of each participant in the optional retirement program
2716 an amount equal to the normal cost portion of the employer
2717 retirement contribution which would be required if the
2718 participant were a regular member of the Florida Retirement
2719 System pension plan ~~defined benefit program~~, plus the portion of
2720 the contribution rate required in s. 112.363(8) that would
2721 otherwise be assigned to the Retiree Health Insurance Subsidy
2722 Trust Fund. Effective July 1, 2001, through June 30, 2011, each
2723 employer shall contribute on behalf of each participant in the
2724 optional program an amount equal to 10.43 percent of the
2725 participant's gross monthly compensation. The department shall
2726 deduct an amount approved by the Legislature to provide for the
2727 administration of this program. The payment of the contributions
2728 to the optional program which is required by this paragraph for
2729 each participant shall be made by the employer to the

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2730 department, which shall forward the contributions to the
2731 designated company or companies contracting for payment of
2732 benefits for the participant under the program. However, such
2733 contributions paid on behalf of an employee described in
2734 paragraph (3)(c) shall not be forwarded to a company and shall
2735 not begin to accrue interest until the employee has executed a
2736 contract and notified the department.

2737 2. Effective July 1, 2011, the State University System
2738 Optional Retirement Program is closed to new participants. All
2739 employees participating in the program on June 30, 2011, shall
2740 be enrolled in the Florida Retirement System Investment Plan as
2741 of July 1, 2011. Participants may continue optional program
2742 accounts that were in existence on June 30, 2011.

2743 (e) Prior to July 1, 2011, each participant in the optional
2744 retirement program who has executed a contract may contribute by
2745 way of salary reduction or deduction a percentage amount of the
2746 participant's gross compensation not to exceed the percentage
2747 amount contributed by the employer to the optional program, but
2748 in no case may such contribution exceed federal limitations.
2749 Payment of the participant's contributions shall be made by the
2750 financial officer of the employer to the division which shall
2751 forward the contributions to the designated company or companies
2752 contracting for payment of benefits for the participant under
2753 the program. A participant may not make, through salary
2754 reduction, any voluntary employee contributions to any other
2755 plan under s. 403(b) of the Internal Revenue Code, with the
2756 exception of a custodial account under s. 403(b)(7) of the

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2757 Internal Revenue Code, until he or she has made an employee
2758 contribution to his or her optional program equal to the
2759 employer contribution. A participant is responsible for
2760 monitoring his or her individual tax-deferred income to ensure
2761 he or she does not exceed the maximum deferral amounts permitted
2762 under the Internal Revenue Code.

2763 (5) BENEFITS.—

2764 (a) Benefits are payable under the optional retirement
2765 program only to vested participants in the program, or their
2766 beneficiaries as designated by the participant in the contract
2767 with a provider company, and such benefits shall be paid only by
2768 the designated company in accordance with s. 403(b) of the
2769 Internal Revenue Code and the terms of the annuity contract or
2770 contracts applicable to the participant. Benefits accrue in
2771 individual accounts that are participant-directed, portable, and
2772 funded by employer contributions and the earnings thereon. The
2773 participant must be terminated for 3 calendar months from all
2774 employment relationships with all Florida Retirement System
2775 employers, as provided in s. 121.021(39), to begin receiving the
2776 employer-funded benefit. Benefits funded by employer
2777 contributions are payable in accordance with the following terms
2778 and conditions:

2779 1. Benefits shall be paid only to a participant, to his or
2780 her beneficiaries, or to his or her estate, as designated by the
2781 participant.

2782 2. Benefits shall be paid by the provider company or
2783 companies in accordance with the law, the provisions of the

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2784 contract, and any applicable department rule or policy.

2785 3. In the event of a participant's death, moneys -
2786 accumulated by, or on behalf of, the participant, less
2787 withholding taxes remitted to the Internal Revenue Service, if
2788 any, shall be distributed to the participant's designated
2789 beneficiary or beneficiaries, or to the participant's estate, as
2790 if the participant retired on the date of death, as provided in
2791 paragraph (d) ~~(e)~~. No other death benefits are available to
2792 survivors of participants under the optional retirement program
2793 except for such benefits, or coverage for such benefits, as are
2794 separately afforded by the employer, at the employer's
2795 discretion.

2796 (b) Under the optional retirement program, benefits are not
2797 payable for employee hardships, unforeseeable emergencies,
2798 loans, medical expenses, educational expenses, purchase of a
2799 principal residence, payments necessary to prevent eviction or
2800 foreclosure on an employee's principal residence, or for any
2801 other reason prior to termination from all employment
2802 relationships with participating employers, as provided in s.
2803 121.021(39).

2804 (c) ~~(b)~~ Upon receipt by the provider company of a properly
2805 executed application for distribution of benefits, the total
2806 accumulated benefit shall be payable to the participant, as:

- 2807 1. A lump-sum distribution to the participant;
2808 2. A lump-sum direct rollover distribution whereby all
2809 accrued benefits, plus interest and investment earnings, are
2810 paid from the participant's account directly to an eligible

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2811 retirement plan, as defined in s. 402(c)(8)(B) of the Internal
2812 Revenue Code, on behalf of the participant;

2813 3. Periodic distributions;

2814 4. A partial lump-sum payment whereby a portion of the
2815 accrued benefit is paid to the participant and the remaining
2816 amount is transferred to an eligible retirement plan, as defined
2817 in s. 402(c)(8)(B) of the Internal Revenue Code, on behalf of
2818 the participant; or

2819 5. Such other distribution options as are provided for in
2820 the participant's optional retirement program contract.

2821 (d)~~(e)~~ Survivor benefits shall be payable as:

2822 1. A lump-sum distribution payable to the beneficiaries or
2823 to the deceased participant's estate;

2824 2. An eligible rollover distribution on behalf of the
2825 surviving spouse of a deceased participant, whereby all accrued
2826 benefits, plus interest and investment earnings, are paid from
2827 the deceased participant's account directly to an eligible
2828 retirement plan, as described in s. 402(c)(8)(B) of the Internal
2829 Revenue Code, on behalf of the surviving spouse;

2830 3. Such other distribution options as are provided for in
2831 the participant's optional retirement program contract; or

2832 4. A partial lump-sum payment whereby a portion of the
2833 accrued benefit is paid to the deceased participant's surviving
2834 spouse or other designated beneficiaries, less withholding taxes
2835 remitted to the Internal Revenue Service, if any, and the
2836 remaining amount is transferred directly to an eligible
2837 retirement plan, as described in s. 402(c)(8)(B) of the Internal

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2838 Revenue Code, on behalf of the surviving spouse. The proportions
2839 must be specified by the participant or the surviving
2840 beneficiary.

2841

2842 This paragraph does not abrogate other applicable provisions of
2843 state or federal law providing payment of death benefits.

2844 (e)~~(d)~~ The benefits payable to any person under the
2845 optional retirement program, and any contribution accumulated
2846 under such program, shall not be subject to assignment,
2847 execution, or attachment or to any legal process whatsoever.

2848 (f)~~(e)~~ A participant who chooses to receive his or her
2849 benefits must be terminated for 3 calendar months to be eligible
2850 to receive benefits funded by employer contributions. A
2851 participant upon termination as defined in s. 121.021 must
2852 notify the provider company of the date he or she wishes
2853 benefits funded by required employee and employer contributions
2854 to begin and must meet termination as defined in s. 121.021
2855 after the initial benefit payment or distribution. Benefits may
2856 be deferred until the participant chooses to make such
2857 application.

2858 (g)~~(f)~~ Benefits funded by the participant's voluntary
2859 personal contributions may be paid out at any time and in any
2860 form within the limits provided in the contract between the
2861 participant and his or her provider company. The participant
2862 shall notify the provider company regarding the date and
2863 provisions under which he or she wants to receive the employee-
2864 funded portion of the plan.

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2865 | (h)~~(g)~~ For purposes of this section, "retiree" means a
2866 | former participant of the optional retirement program who has
2867 | terminated employment and has taken a distribution as provided
2868 | in this subsection, except for a mandatory distribution of a de
2869 | minimis account authorized by the department.

2870 | Section 14. Section 121.4501, Florida Statutes, is amended
2871 | to read:

2872 | 121.4501 Florida Retirement System Investment Plan ~~Public~~
2873 | ~~Employee Optional Retirement Program.~~

2874 | (1) The Trustees of the State Board of Administration shall
2875 | establish a ~~an optional~~ defined contribution ~~retirement~~ program
2876 | called the "Florida Retirement System Investment Plan" or
2877 | "Investment Plan" for members of the Florida Retirement System
2878 | under which retirement benefits will be provided for eligible
2879 | employees initially enrolled before July 1, 2011, and who have
2880 | the option to voluntarily elect to participate in the investment
2881 | plan program, and as a compulsory requirement for all eligible
2882 | employees initially enrolled on or after July 1, 2011. The
2883 | retirement benefits to be provided for or on behalf of
2884 | participants in such optional retirement program shall be
2885 | provided through member-directed ~~employee-directed~~ investments,
2886 | in accordance with s. 401(a) of the Internal Revenue Code and
2887 | ~~its~~ related regulations. The employer and members ~~employers~~
2888 | shall make contributions ~~contribute~~, as provided in this section
2889 | and ss. 121.571~~7~~ and 121.71, to the investment plan ~~Public~~
2890 | ~~Employee Optional Retirement Program~~ Trust Fund toward the
2891 | funding of ~~such optional~~ benefits.

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2892 (2) DEFINITIONS.—As used in this part, the term:
2893 (a) "Approved provider" or "provider" means a private
2894 sector company that is selected and approved by the state board
2895 to offer one or more investment products or services to the
2896 investment plan ~~optional retirement program~~. The term includes a
2897 bundled provider that offers members ~~participants~~ a range of
2898 individually allocated or unallocated investment products and
2899 may offer a range of administrative and customer services, which
2900 may include accounting and administration of individual member
2901 ~~participant~~ benefits and contributions; individual member
2902 ~~participant~~ recordkeeping; asset purchase, control, and
2903 safekeeping; direct execution of the member's ~~participant's~~
2904 instructions as to asset and contribution allocation;
2905 calculation of daily net asset values; direct access to member
2906 ~~participant~~ account information; periodic reporting to members
2907 ~~participants~~, at least quarterly, on account balances and
2908 transactions; guidance, advice, and allocation services directly
2909 relating to the provider's own investment options or products,
2910 but only if the bundled provider complies with the standard of
2911 care of s. 404(a)(1)(A-B) of the Employee Retirement Income
2912 Security Act of 1974 (ERISA), and if providing such guidance,
2913 advice, or allocation services does not constitute a prohibited
2914 transaction under s. 4975(c)(1) of the Internal Revenue Code or
2915 s. 406 of ERISA, notwithstanding that such prohibited
2916 transaction provisions do not apply to the ~~optional~~ retirement
2917 program; a broad array of distribution options; asset
2918 allocation; and retirement counseling and education. Private

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2919	sector companies include investment management companies,	
2920	insurance companies, depositories, and mutual fund companies.	
2921	(b) "Average monthly compensation" means one-twelfth of	
2922	average final compensation as defined in s. 121.021.	
2923	(c) "Covered employment" means employment in a regularly	
2924	established position as defined in s. 121.021.	
2925	(d) <u>"Florida Retirement System Pension Plan" or "Pension</u>	
2926	<u>Plan" means the defined benefit program of the Florida</u>	
2927	<u>Retirement System administered under part I of this chapter.</u>	
2928	(e) "Division" means the Division of Retirement within the	
2929	department.	
2930	(f) "Electronic means" means by telephone, if the required	
2931	information is received on a recorded line, or through Internet	
2932	access, if the required information is captured online.	
2933	(g) "Eligible employee" means an officer or employee, as	
2934	defined in s. 121.021, who:	
2935	1. Is a member of, or is eligible for membership in, the	
2936	Florida Retirement System, including any renewed member of the	
2937	Florida Retirement System initially enrolled before July 1,	
2938	2010; or	
2939	2. Participates in, or is eligible to participate in, the	
2940	Senior Management Service Optional Annuity Program as	
2941	established under s. 121.055(6), the State Community College	
2942	System Optional Retirement Program as established under s.	
2943	121.051(2)(c), or the State University System Optional	
2944	Retirement Program established under s. 121.35.	
2945		

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2946 The term does not include any member participating in the
2947 Deferred Retirement Option Program established under s.
2948 121.091(13), a retiree of a state-administered retirement system
2949 initially reemployed on or after July 1, 2010, or a mandatory
2950 participant of the State University System Optional Retirement
2951 Program established under s. 121.35.

2952 (h) "Employer" means an employer, as defined in s. 121.021,
2953 of an eligible employee.

2954 (i) "Florida Retirement System Investment Plan" or
2955 "Investment Plan" ~~"Optional retirement program" or "optional~~
2956 ~~program"~~ means the defined contribution program ~~Public Employee~~
2957 ~~Optional Retirement Investment Program~~ established under this
2958 part.

2959 (j) "Participant", "member", or "employee" means an
2960 eligible employee who voluntarily enrolls in the investment plan
2961 ~~optional program~~ as provided in subsection (4), or a compulsory
2962 member as provided in subsections (1) and (4), or a terminated
2963 Deferred Retirement Option Program participant as described in
2964 subsection (22)-(21), or a beneficiary or alternate payee.

2965 (k) "Participant contributions", "member contributions", or
2966 "employee contributions" mean the sum of all amounts deducted
2967 from the salary of a member by his or her employer in accordance
2968 with s. 121.71(2) and credited to his or her individual account
2969 in the investment plan, plus any earnings on such amounts and
2970 any contributions specified in paragraph (5) (e).

2971 (l) ~~(k)~~ "Retiree" means a former member participant of the
2972 investment plan ~~optional retirement program~~ who has terminated

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2973 employment and ~~has~~ taken any a distribution of vested employee
2974 or employer contributions as provided in s. 121.591, except for
2975 a mandatory distribution of a de minimis account authorized by
2976 the state board or a minimum required distribution provided by
2977 s. 401(a) (9) of the Internal Revenue Code.

2978 (m)~~(l)~~ "Vested" or "vesting" means the guarantee that a
2979 member participant is eligible to receive a retirement benefit
2980 upon completion of the required years of service under the
2981 investment plan optional retirement Program.

2982 (3) ELIGIBILITY; RETIREMENT SERVICE CREDIT; TRANSFER OF
2983 BENEFITS.—

2984 ~~(a) Participation in the Public Employee Optional~~
2985 ~~Retirement Program is limited to eligible employees.~~
2986 ~~Participation in the optional retirement program is in lieu of~~
2987 ~~participation in the defined benefit program of the Florida~~
2988 ~~Retirement System.~~

2989 (a)~~(b)~~ An eligible employee who is employed in a regularly
2990 established position by a state employer on June 1, 2002; by a
2991 district school board employer on September 1, 2002; or by a
2992 local employer on December 1, 2002, and who is a member of the
2993 pension plan defined benefit retirement program of the Florida
2994 Retirement System at the time of his or her election to
2995 participate in the investment plan Public Employee Optional
2996 Retirement program shall retain all retirement service credit
2997 earned under the pension plan defined benefit retirement program
2998 of the Florida Retirement System as credited under the system
2999 and is ~~shall be~~ entitled to a deferred benefit upon termination.

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3000 ~~if eligible under the system.~~ However, election to participate
 3001 in the investment plan ~~Public Employee Optional Retirement~~
 3002 ~~program~~ terminates the active membership of the employee in the
 3003 pension plan defined benefit program ~~of the Florida Retirement~~
 3004 ~~System,~~ and the service of a participant in the investment plan
 3005 is ~~Public Employee Optional Retirement program~~ shall not be
 3006 creditable under the pension plan defined benefit retirement
 3007 ~~program of the Florida Retirement System~~ for purposes of benefit
 3008 accrual but is creditable ~~shall be credited~~ for purposes of
 3009 vesting.

3010 (b)-(c)1. Notwithstanding paragraph (a), ~~an (b),~~ each
 3011 eligible employee who elects to participate in the investment
 3012 plan ~~Public Employee Optional Retirement program~~ and establishes
 3013 one or more individual member participant ~~accounts under the~~
 3014 ~~optional program~~ may elect to transfer to the investment plan
 3015 ~~optional program~~ a sum representing the present value of the
 3016 employee's accumulated benefit obligation under the pension plan
 3017 ~~defined benefit retirement program of the Florida Retirement~~
 3018 ~~System.~~ Upon such transfer, all service credit ~~previously earned~~
 3019 under the pension plan is defined benefit program ~~of the Florida~~
 3020 ~~Retirement System shall be nullified~~ for purposes of entitlement
 3021 to a future benefit under the pension plan defined benefit
 3022 ~~program of the Florida Retirement System.~~ A member participant
 3023 may not transfer ~~is precluded from transferring~~ the accumulated
 3024 benefit obligation balance from the pension plan after the time
 3025 ~~defined benefit program upon the expiration of the period for~~
 3026 enrolling ~~afforded to enroll~~ in the investment plan has expired

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3027 ~~optional program.~~
3028 1.2. For purposes of this subsection, the present value of
3029 the member's accumulated benefit obligation is based upon the
3030 member's estimated creditable service and estimated average
3031 final compensation under the pension plan ~~defined benefit~~
3032 ~~program~~, subject to recomputation under subparagraph 2. 3. For
3033 state employees ~~enrolling under subparagraph (4)(a)1.~~, initial
3034 estimates shall ~~will~~ be based upon creditable service and
3035 average final compensation as of midnight on June 30, 2002; for
3036 district school board employees ~~enrolling under subparagraph~~
3037 ~~(4)(b)1.~~, initial estimates shall ~~will~~ be based upon creditable
3038 service and average final compensation as of midnight on
3039 September 30, 2002; and for local government employees ~~enrolling~~
3040 ~~under subparagraph (4)(c)1.~~, initial estimates shall ~~will~~ be
3041 based upon creditable service and average final compensation as
3042 of midnight on December 31, 2002. The dates ~~respectively~~
3043 specified ~~are above shall be construed as~~ the "estimate date"
3044 for these employees. The actuarial present value of the
3045 employee's accumulated benefit obligation shall be based on the
3046 following:
3047 a. The discount rate and other relevant actuarial
3048 assumptions used to value the Florida Retirement System Trust
3049 Fund at the time the amount to be transferred is determined,
3050 consistent with the factors provided in sub-subparagraphs b. and
3051 c.
3052 b. A benefit commencement age, based on the member's
3053 estimated creditable service as of the estimate date. The

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3054 benefit commencement age is ~~shall be~~ the younger of the
3055 following, but may ~~shall~~ not be younger than the member's age as
3056 of the estimate date:

3057 (I) Age 62; or

3058 (II) The age the member would attain if the member
3059 completed 30 years of service with an employer, assuming the
3060 member worked continuously from the estimate date, and
3061 disregarding any vesting requirement that would otherwise apply
3062 under the pension plan ~~defined benefit program of the Florida~~
3063 ~~Retirement System.~~

3064 c. For members of the Special Risk Class, and for members
3065 of the Special Risk Administrative Support Class entitled to
3066 retain the special risk normal retirement date, the benefit
3067 commencement age is ~~shall be~~ the younger of the following, but
3068 may ~~shall~~ not be younger than the member's age as of the
3069 estimate date:

3070 (I) Age 55; or

3071 (II) The age the member would attain if the member
3072 completed 25 years of service with an employer, assuming the
3073 member worked continuously from the estimate date, and
3074 disregarding any vesting requirement that would otherwise apply
3075 under the defined benefit program ~~of the Florida Retirement~~
3076 ~~System.~~

3077 d. The calculation must ~~shall~~ disregard vesting
3078 requirements and early retirement reduction factors that would
3079 otherwise apply under the pension plan ~~defined benefit.~~
3080 ~~retirement program~~

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3081 ~~2.3.~~ For each member ~~participant~~ who elects to transfer
3082 moneys from the pension plan ~~defined benefit program~~ to his or
3083 her account in the investment plan ~~optional program~~, the
3084 division shall recompute the amount transferred under
3085 subparagraph 1. ~~within 2.~~ ~~not later than~~ 60 days after the
3086 actual transfer of funds based upon the member's ~~participant's~~
3087 actual creditable service and actual final average compensation
3088 as of the initial date of participation in the investment plan
3089 ~~optional program~~. If the recomputed amount differs from the
3090 amount transferred ~~under subparagraph 2.~~ by \$10 or more, the
3091 division shall:

3092 a. Transfer, or cause to be transferred, from the Florida
3093 Retirement System Trust Fund to the member's ~~participant's~~
3094 account ~~in the optional program~~ the excess, if any, of the
3095 recomputed amount over the previously transferred amount
3096 together with interest from the initial date of transfer to the
3097 date of transfer under this subparagraph, based upon the
3098 effective annual interest equal to the assumed return on the
3099 actuarial investment which was used in the most recent actuarial
3100 valuation of the system, compounded annually.

3101 b. Transfer, or cause to be transferred, from the member's
3102 ~~participant's~~ account to the Florida Retirement System Trust
3103 Fund the excess, if any, of the previously transferred amount
3104 over the recomputed amount, together with interest from the
3105 initial date of transfer to the date of transfer under this
3106 subparagraph, based upon 6 percent effective annual interest,
3107 compounded annually, pro rata based on the member's

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3108 ~~participant's~~ allocation plan.

3109 3. If contribution adjustments are made as a result of
3110 employer errors or corrections, including plan corrections,
3111 following recomputation of the amount transferred under
3112 subparagraph 1., the member participant is entitled to the
3113 additional contributions or is responsible for returning any
3114 excess contributions resulting from the correction, provided
3115 that any return of such erroneous excess pretax contribution by
3116 the plan shall be made within the period allowed by the Internal
3117 Revenue Service. The present value of the member's accumulated
3118 benefit obligation shall not be recalculated.

3119 4. As directed by the member participant, the state board
3120 shall transfer or cause to be transferred the appropriate
3121 amounts to the designated accounts within. ~~The board shall~~
3122 ~~establish transfer procedures by rule, but the actual transfer~~
3123 ~~shall not be later than~~ 30 days after the effective date of the
3124 member's participation in the investment plan optional program
3125 unless the major financial markets for securities available for
3126 a transfer are seriously disrupted by an unforeseen event that
3127 ~~which also~~ causes the suspension of trading on any national
3128 securities exchange in the country where the securities are ~~were~~
3129 issued. In that event, the ~~such~~ 30-day period ~~of time~~ may be
3130 extended by a resolution of the state board trustees. Transfers
3131 are not commissionable or subject to other fees and may be in
3132 the form of securities or cash, as determined by the state
3133 board. Such securities are ~~shall be~~ valued as of the date of
3134 receipt in the participant's account.

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3135 5. If the state board or the division receives notification
3136 from the United States Internal Revenue Service that this
3137 paragraph or any portion of this paragraph will cause the
3138 retirement system, or a portion thereof, to be disqualified for
3139 tax purposes under the Internal Revenue Code, ~~then~~ the portion
3140 that will cause the disqualification does not apply. Upon such
3141 notice, the state board and the division shall notify the
3142 presiding officers of the Legislature.

3143 (4) PARTICIPATION; ENROLLMENT.—

3144 (a) ~~1-~~ Between June 1, 2002 and February 28, 2003, a 90 day
3145 election period was provided to each eligible employee
3146 participating in the Florida Retirement System, preceded by a 90
3147 day education period, permitting each eligible employee to elect
3148 membership in the investment plan. Any employee who failed to
3149 elect the investment plan during the election period remained in
3150 the pension plan. An eligible employee who was employed in a
3151 regularly established position during the election period was
3152 granted the option to make one subsequent election, as provided
3153 in paragraph (e). With respect to an eligible employee who did
3154 not participate in the initial election period and an eligible
3155 employee who is initially employed in a regularly established
3156 position after the close of the initial election period but
3157 prior to June 30, 2011, the ~~on June 1, 2002,~~ by a state
3158 employer:

3159 ~~a. Any such employee may elect to participate in the Public~~
3160 ~~Employee Optional Retirement Program in lieu of retaining his or~~
3161 ~~her membership in the defined benefit program of the Florida~~

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3162 ~~Retirement System. The election must be made in writing or by~~
3163 ~~electronic means and must be filed with the third-party~~
3164 ~~administrator by August 31, 2002, or, in the case of an active~~
3165 ~~employee who is on a leave of absence on April 1, 2002, by the~~
3166 ~~last business day of the 5th month following the month the leave~~
3167 ~~of absence concludes. This election is irrevocable, except as~~
3168 ~~provided in paragraph (c). Upon making such election, the~~
3169 ~~employee shall be enrolled as a participant of the Public~~
3170 ~~Employee Optional Retirement Program, the employee's membership~~
3171 ~~in the Florida Retirement System shall be governed by the~~
3172 ~~provisions of this part, and the employee's membership in the~~
3173 ~~defined benefit program of the Florida Retirement System shall~~
3174 ~~terminate. The employee's enrollment in the Public Employee~~
3175 ~~Optional Retirement Program shall be effective the first day of~~
3176 ~~the month for which a full month's employer contribution is made~~
3177 ~~to the optional program.~~

3178 ~~b. Any such employee who fails to elect to participate in~~
3179 ~~the Public Employee Optional Retirement Program within the~~
3180 ~~prescribed time period is deemed to have elected to retain~~
3181 ~~membership in the defined benefit program of the Florida~~
3182 ~~Retirement System, and the employee's option to elect to~~
3183 ~~participate in the optional program is forfeited.~~

3184 ~~2. With respect to employees who become eligible to~~
3185 ~~participate in the Public Employee Optional Retirement Program~~
3186 ~~by reason of employment in a regularly established position with~~
3187 ~~a state employer commencing after April 1, 2002:~~

3188 ~~a. Any such employee shall, by default, be enrolled in the~~

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3189 ~~pension plan defined benefit retirement program of the Florida~~
3190 ~~Retirement System~~ at the commencement of employment, and may, by
3191 the last business day of the 5th month following the employee's
3192 month of hire, elect to participate in the investment plan
3193 ~~Public Employee Optional Retirement program~~. The employee's
3194 election must be made in writing or by electronic means and must
3195 be filed with the third-party administrator. The election to
3196 participate in the investment plan ~~optional program~~ is
3197 irrevocable, except as provided in paragraph (c) ~~(e)~~.

3198 1.b. If the employee files such election within the
3199 prescribed time period, enrollment in the investment plan
3200 ~~optional program~~ is ~~shall be~~ effective on the first day of
3201 employment. The ~~employer~~ retirement contributions paid through
3202 the month of the employee plan change shall be transferred to
3203 the investment ~~optional~~ program, and, effective the first day of
3204 the next month, the employer and participant must ~~shall~~ pay the
3205 applicable contributions based on the employee membership class
3206 in the ~~optional~~ program.

3207 2.c. ~~An Any such~~ employee who fails to elect to participate
3208 in the investment plan ~~Public Employee Optional Retirement~~
3209 ~~program~~ within the prescribed time period is deemed to have
3210 elected to retain membership in the pension plan defined benefit
3211 ~~program of the Florida Retirement System~~, and the employee's
3212 option to elect to participate in the investment plan ~~optional~~
3213 ~~program~~ is forfeited.

3214 3. With respect to employees who become eligible to
3215 participate in the investment plan ~~Public Employee Optional~~

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3216 ~~Retirement Program~~ pursuant to s. 121.051(2)(c)3. or s.
3217 121.35(3)(i), the ~~any such~~ employee may elect to participate in
3218 the investment plan ~~Public Employee Optional Retirement program~~
3219 in lieu of retaining his or her participation in the State
3220 Community College System Optional Retirement Program or the
3221 State University System Optional Retirement Program. The
3222 election must be made in writing or by electronic means and must
3223 be filed with the third-party administrator. This election is
3224 irrevocable, except as provided in paragraph (c) ~~(e)~~. Upon
3225 making such election, the employee shall be enrolled as a member
3226 in participant ~~of the investment plan Public Employee Optional~~
3227 ~~Retirement program~~, the employee's membership in the Florida
3228 Retirement System shall be governed by the provisions of this
3229 part, and the employee's participation in the State Community
3230 College System Optional Retirement Program or the State
3231 University System Optional Retirement Program shall terminate.
3232 The employee's enrollment in the investment plan is Public
3233 ~~Employee Optional Retirement program~~ shall be effective on the
3234 first day of the month for which a full month's employer and
3235 employee contribution is made to the investment plan ~~optional~~
3236 ~~program~~.

3237 4. ~~For purposes of this paragraph, "state employer" means~~
3238 ~~any agency, board, branch, commission, community college,~~
3239 ~~department, institution, institution of higher education, or~~
3240 ~~water management district of the state, which participates in~~
3241 ~~the Florida Retirement System for the benefit of certain~~
3242 ~~employees.~~

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3243 ~~(b)1. With respect to an eligible employee who is employed~~
3244 ~~in a regularly established position on September 1, 2002, by a~~
3245 ~~district school board employer:~~
3246 ~~a. Any such employee may elect to participate in the Public~~
3247 ~~Employee Optional Retirement Program in lieu of retaining his or~~
3248 ~~her membership in the defined benefit program of the Florida~~
3249 ~~Retirement System. The election must be made in writing or by~~
3250 ~~electronic means and must be filed with the third-party~~
3251 ~~administrator by November 30, or, in the case of an active~~
3252 ~~employee who is on a leave of absence on July 1, 2002, by the~~
3253 ~~last business day of the 5th month following the month the leave~~
3254 ~~of absence concludes. This election is irrevocable, except as~~
3255 ~~provided in paragraph (e). Upon making such election, the~~
3256 ~~employee shall be enrolled as a participant of the Public~~
3257 ~~Employee Optional Retirement Program, the employee's membership~~
3258 ~~in the Florida Retirement System shall be governed by the~~
3259 ~~provisions of this part, and the employee's membership in the~~
3260 ~~defined benefit program of the Florida Retirement System shall~~
3261 ~~terminate. The employee's enrollment in the Public Employee~~
3262 ~~Optional Retirement Program shall be effective the first day of~~
3263 ~~the month for which a full month's employer contribution is made~~
3264 ~~to the optional program.~~
3265 ~~b. Any such employee who fails to elect to participate in~~
3266 ~~the Public Employee Optional Retirement Program within the~~
3267 ~~prescribed time period is deemed to have elected to retain~~
3268 ~~membership in the defined benefit program of the Florida~~
3269 ~~Retirement System, and the employee's option to elect to~~

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3270 ~~participate in the optional program is forfeited.~~
3271 ~~2. With respect to employees who become eligible to~~
3272 ~~participate in the Public Employee Optional Retirement Program~~
3273 ~~by reason of employment in a regularly established position with~~
3274 ~~a district school board employer commencing after July 1, 2002:~~
3275 ~~a. Any such employee shall, by default, be enrolled in the~~
3276 ~~defined benefit retirement program of the Florida Retirement~~
3277 ~~System at the commencement of employment, and may, by the last~~
3278 ~~business day of the 5th month following the employee's month of~~
3279 ~~hire, elect to participate in the Public Employee Optional~~
3280 ~~Retirement Program. The employee's election must be made in~~
3281 ~~writing or by electronic means and must be filed with the third-~~
3282 ~~party administrator. The election to participate in the optional~~
3283 ~~program is irrevocable, except as provided in paragraph (c).~~
3284 ~~b. If the employee files such election within the~~
3285 ~~prescribed time period, enrollment in the optional program shall~~
3286 ~~be effective on the first day of employment. The employer~~
3287 ~~retirement contributions paid through the month of the employee~~
3288 ~~plan change shall be transferred to the optional program, and,~~
3289 ~~effective the first day of the next month, the employer shall~~
3290 ~~pay the applicable contributions based on the employee~~
3291 ~~membership class in the optional program.~~
3292 ~~c. Any such employee who fails to elect to participate in~~
3293 ~~the Public Employee Optional Retirement Program within the~~
3294 ~~prescribed time period is deemed to have elected to retain~~
3295 ~~membership in the defined benefit program of the Florida~~
3296 ~~Retirement System, and the employee's option to elect to~~

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3297 ~~participate in the optional program is forfeited.~~

3298 ~~3. For purposes of this paragraph, "district school board~~
3299 ~~employer" means any district school board that participates in~~
3300 ~~the Florida Retirement System for the benefit of certain~~
3301 ~~employees, or a charter school or charter technical career~~
3302 ~~center that participates in the Florida Retirement System as~~
3303 ~~provided in s. 121.051(2)(d).~~

3304 ~~(c)1. With respect to an eligible employee who is employed~~
3305 ~~in a regularly established position on December 1, 2002, by a~~
3306 ~~local employer:~~

3307 ~~a. Any such employee may elect to participate in the Public~~
3308 ~~Employee Optional Retirement Program in lieu of retaining his or~~
3309 ~~her membership in the defined benefit program of the Florida~~
3310 ~~Retirement System. The election must be made in writing or by~~
3311 ~~electronic means and must be filed with the third-party~~
3312 ~~administrator by February 28, 2003, or, in the case of an active~~
3313 ~~employee who is on a leave of absence on October 1, 2002, by the~~
3314 ~~last business day of the 5th month following the month the leave~~
3315 ~~of absence concludes. This election is irrevocable, except as~~
3316 ~~provided in paragraph (c). Upon making such election, the~~
3317 ~~employee shall be enrolled as a participant of the Public~~
3318 ~~Employee Optional Retirement Program, the employee's membership~~
3319 ~~in the Florida Retirement System shall be governed by the~~
3320 ~~provisions of this part, and the employee's membership in the~~
3321 ~~defined benefit program of the Florida Retirement System shall~~
3322 ~~terminate. The employee's enrollment in the Public Employee~~
3323 ~~Optional Retirement Program shall be effective the first day of~~

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3324 ~~the month for which a full month's employer contribution is made~~
3325 ~~to the optional program.~~

3326 ~~b. Any such employee who fails to elect to participate in~~
3327 ~~the Public Employee Optional Retirement Program within the~~
3328 ~~prescribed time period is deemed to have elected to retain~~
3329 ~~membership in the defined benefit program of the Florida~~
3330 ~~Retirement System, and the employee's option to elect to~~
3331 ~~participate in the optional program is forfeited.~~

3332 ~~2. With respect to employees who become eligible to~~
3333 ~~participate in the Public Employee Optional Retirement Program~~
3334 ~~by reason of employment in a regularly established position with~~
3335 ~~a local employer commencing after October 1, 2002:~~

3336 ~~a. Any such employee shall, by default, be enrolled in the~~
3337 ~~defined benefit retirement program of the Florida Retirement~~
3338 ~~System at the commencement of employment, and may, by the last~~
3339 ~~business day of the 5th month following the employee's month of~~
3340 ~~hire, elect to participate in the Public Employee Optional~~
3341 ~~Retirement Program. The employee's election must be made in~~
3342 ~~writing or by electronic means and must be filed with the third-~~
3343 ~~party administrator. The election to participate in the optional~~
3344 ~~program is irrevocable, except as provided in paragraph (c).~~

3345 ~~b. If the employee files such election within the~~
3346 ~~prescribed time period, enrollment in the optional program shall~~
3347 ~~be effective on the first day of employment. The employer~~
3348 ~~retirement contributions paid through the month of the employee~~
3349 ~~plan change shall be transferred to the optional program, and,~~
3350 ~~effective the first day of the next month, the employer shall~~

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3351 ~~pay the applicable contributions based on the employee~~
3352 ~~membership class in the optional program.~~

3353 ~~c. Any such employee who fails to elect to participate in~~
3354 ~~the Public Employee Optional Retirement Program within the~~
3355 ~~prescribed time period is deemed to have elected to retain~~
3356 ~~membership in the defined benefit program of the Florida~~
3357 ~~Retirement System, and the employee's option to elect to~~
3358 ~~participate in the optional program is forfeited.~~

3359 ~~3. For purposes of this paragraph, "local employer" means~~
3360 ~~any employer not included in paragraph (a) or paragraph (b).~~

3361 ~~(b) (d)~~ Contributions available for self-direction by a
3362 member participant who has not selected one or more specific
3363 investment products shall be allocated as prescribed by the
3364 state board. The third-party administrator shall notify the
3365 member any such participant at least quarterly that the member
3366 participant should take an affirmative action to make an asset
3367 allocation among the investment optional program products.

3368 (c) On or after July 1, 2011, a member of the pension plan
3369 who obtains a refund of employee contributions retains his or
3370 her prior plan choice upon return to employment in a regularly
3371 established position with a participating employer.

3372 (d) A member of the investment plan who takes a
3373 distribution of any contributions from his investment plan
3374 account is considered a retiree. Upon reemployment in a
3375 regularly established position with a participating employer,
3376 the member returns as a new hire and, if applicable, has the
3377 opportunity to participate in the Florida Retirement System. A

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3378 retiree who is initially reemployed on or after July 1, 2010, is
3379 not eligible for renewed membership.

3380 (e) After the period during which an eligible employee had
3381 the choice to elect the pension plan ~~defined benefit program~~ or
3382 the investment plan ~~optional retirement program~~, or the month
3383 following the receipt of the eligible employee's plan election,
3384 if sooner, the employee shall have one opportunity, at the
3385 employee's discretion, to choose to move from the pension plan
3386 ~~defined benefit program~~ to the investment plan ~~optional~~
3387 ~~retirement program~~ or from the investment plan ~~optional~~
3388 ~~retirement program~~ to the pension plan ~~defined benefit program~~.
3389 Eligible employees may elect to move between Florida Retirement
3390 System programs only if they are earning service credit in an
3391 employer-employee relationship consistent with s.

3392 121.021(17)(b), excluding leaves of absence without pay.
3393 Effective July 1, 2005, such elections are effective on the
3394 first day of the month following the receipt of the election by
3395 the third-party administrator and are not subject to the
3396 requirements regarding an employer-employee relationship or
3397 receipt of contributions for the eligible employee in the
3398 effective month, except when the election is received by the
3399 third-party administrator. This paragraph is contingent upon
3400 approval by ~~from~~ the Internal Revenue Service ~~for including the~~
3401 ~~choice described herein within the programs offered by the~~
3402 ~~Florida Retirement System.~~

3403 1. If the employee chooses to move to the investment plan
3404 ~~optional retirement program~~, the applicable provisions of

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3405 subsection (3) ~~this section~~ shall govern the transfer.

3406 2. If the employee chooses to move to the pension plan

3407 ~~defined benefit program~~, the employee must transfer from his or

3408 her investment plan ~~optional Retirement program~~ account, and

3409 from other employee moneys as necessary, a sum representing the

3410 present value of that employee's accumulated benefit obligation

3411 immediately following the time of such movement, determined

3412 assuming that attained service equals the sum of service in the

3413 pension plan ~~defined benefit program~~ and service in the

3414 investment plan ~~optional retirement program~~. Benefit

3415 commencement occurs on the first date the employee is eligible

3416 for unreduced benefits, using the discount rate and other

3417 relevant actuarial assumptions that were used to value the

3418 pension ~~defined benefit~~ plan liabilities in the most recent

3419 actuarial valuation. For any employee who, at the time of the

3420 second election, already maintains an accrued benefit amount in

3421 the pension plan ~~defined benefit program~~, the then-present value

3422 of the accrued benefit shall be deemed part of the required

3423 transfer amount. The division shall ensure that the transfer sum

3424 is prepared using a formula and methodology certified by an

3425 enrolled actuary. A refund is not permitted of any employee

3426 contributions or additional member payments made which exceed

3427 the employee contributions that would have accrued had the

3428 member remained in the pension plan and not transferred to the

3429 investment plan.

3430 3. Notwithstanding subparagraph 2., an employee who chooses

3431 to move to the pension plan ~~defined benefit program~~ and who

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3432 became eligible to participate in the investment plan ~~optional~~
 3433 ~~retirement program~~ by reason of employment in a regularly
 3434 established position with a state employer after June 1, 2002; a
 3435 district school board employer after September 1, 2002; or a
 3436 local employer after December 1, 2002, must transfer from his or
 3437 her investment plan ~~optional retirement program~~ account, and
 3438 from other employee moneys as necessary, a sum representing the
 3439 employee's actuarial accrued liability. A refund is not
 3440 permitted of any employee contributions or additional
 3441 participant payments made which exceed the employee
 3442 contributions that would have accrued had the member remained in
 3443 the pension plan and not transferred to the investment plan.

3444 4. An employee's ability to transfer from the pension plan
 3445 ~~defined benefit program~~ to the investment plan ~~optional~~
 3446 ~~retirement program~~ pursuant to paragraphs (a) and (b) ~~(a)-(d)~~,
 3447 and the ability of a current employee to have an option to later
 3448 transfer back into the pension plan ~~defined benefit program~~
 3449 under subparagraph 2., shall be deemed a significant system
 3450 amendment. Pursuant to s. 121.031(4), any resulting unfunded
 3451 liability arising from actual original transfers from the
 3452 pension plan ~~defined benefit program~~ to the investment plan
 3453 ~~optional program~~ must be amortized within 30 plan years as a
 3454 separate unfunded actuarial base independent of the reserve
 3455 stabilization mechanism defined in s. 121.031(3)(f). For the
 3456 first 25 years, a direct amortization payment may not be
 3457 calculated for this base. During this 25-year period, the
 3458 separate base shall be used to offset the impact of employees

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3459 exercising their second program election under this paragraph.
3460 ~~It is the intent that~~ The actuarial funded status of the pension
3461 plan will ~~defined benefit program~~ not be affected by such second
3462 program elections in any significant manner, after due
3463 recognition of the separate unfunded actuarial base. Following
3464 the initial 25-year period, any remaining balance of the
3465 original separate base shall be amortized over the remaining 5
3466 years of the required 30-year amortization period.

3467 5. If the employee chooses to transfer from the investment
3468 plan ~~optional retirement program~~ to the pension plan ~~defined~~
3469 ~~benefit program~~ and retains an excess account balance in the
3470 investment plan ~~optional program~~ after satisfying the buy-in
3471 requirements under this paragraph, the excess may not be
3472 distributed until the member retires from the pension plan
3473 ~~defined benefit program~~. The excess account balance may be
3474 rolled over to the pension plan ~~defined benefit program~~ and used
3475 to purchase service credit or upgrade creditable service in the
3476 pension plan ~~that program~~.

3477 (f) All eligible employees initially enrolled on or after
3478 July 1, 2011 are compulsory members of the investment plan and
3479 pension plan membership shall not be permitted except as
3480 provided in s. 121.591. Such employees are not permitted to
3481 utilize the election opportunity specified in subsection (e).

3482 (5) CONTRIBUTIONS.—

3483 (a) The employee and ~~Each~~ employer shall make the required
3484 contributions to contribute on behalf of each participant in the
3485 investment plan based on a percentage of the employee's gross

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3486 monthly compensation ~~Public Employee Optional Retirement~~
3487 ~~program~~, as provided in part III of this chapter.
3488 (b) Employee contributions shall be paid as provided in s.
3489 121.72(2).
3490 (c) The state board, acting as plan fiduciary, shall ensure
3491 that all plan assets are held in a trust, pursuant to s. 401 of
3492 the Internal Revenue Code. The fiduciary shall ensure that ~~said~~
3493 contributions are allocated as follows:
3494 1. The employer and employee contribution portion earmarked
3495 for member participant accounts shall be used to purchase
3496 interests in the appropriate investment vehicles ~~for the~~
3497 ~~accounts of each participant~~ as specified by the member
3498 participant, or in accordance with paragraph (4) (b) ~~(4) (d)~~.
3499 2. The employer contribution portion earmarked for
3500 administrative and educational expenses shall be transferred to
3501 the Investment Plan Trust Fund ~~board~~.
3502 3. The employer contribution portion earmarked for
3503 disability benefits shall be transferred to the Florida
3504 Retirement System Trust Fund ~~department~~.
3505 ~~(d) (b)~~ The third-party administrator is ~~Employers are~~
3506 responsible for monitoring and notifying employers of the
3507 ~~participants regarding~~ maximum contribution levels allowed for
3508 members permitted under the Internal Revenue Code. If a member
3509 ~~participant~~ contributes to any other tax-deferred plan, the
3510 member ~~he or she~~ is responsible for ensuring that total
3511 contributions made to the investment plan ~~optional program~~ and
3512 to any other such plan do not exceed federally permitted

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3513 | maximums.

3514 | (e)~~(e)~~ The investment plan ~~Public Employee Optional~~
3515 | ~~Retirement program~~ may accept for deposit into member
3516 | ~~participant~~ accounts contributions in the form of rollovers or
3517 | direct trustee-to-trustee transfers by or on behalf of members
3518 | ~~participants~~, reasonably determined by the state board to be
3519 | eligible for rollover or transfer to the investment plan
3520 | ~~optional retirement program~~ pursuant to the Internal Revenue
3521 | Code, if such contributions are made in accordance with rules ~~as~~
3522 | ~~may be~~ adopted by the board. Such contributions must ~~shall~~ be
3523 | accounted for in accordance with ~~any~~ applicable Internal Revenue
3524 | Code requirements and rules of the state board.

3525 | (6) VESTING REQUIREMENTS.—

3526 | (a) With respect to employee contributions paid as provided
3527 | in s. 121.72(2), plus interest and earnings thereon and less
3528 | investment fees and administrative charges, a member shall be
3529 | fully and immediately vested.

3530 | (b)~~(a)~~1. With respect to employer contributions paid on
3531 | behalf of the member ~~participant~~ to the investment plan ~~optional~~
3532 | ~~retirement program~~, plus interest and earnings thereon and less
3533 | investment fees and administrative charges, a member ~~participant~~
3534 | is vested after completing 1 work year with an employer,
3535 | including any service while the member ~~participant~~ was a member
3536 | of the pension plan ~~defined benefit program~~ or an optional
3537 | retirement program authorized under s. 121.051(2)(c) or s.
3538 | 121.055(6).

3539 | 2. If the participant terminates employment before

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3540 | satisfying the vesting requirements, the nonvested accumulation
3541 | must be transferred from the member's ~~participant's~~ accounts to
3542 | the state board for deposit and investment by the state board in
3543 | its ~~the~~ suspense account created within the Investment Plan
3544 | ~~Public Employee Optional Retirement Program~~ Trust Fund. If the
3545 | terminated member ~~participant~~ is reemployed as an eligible
3546 | employee within 5 years, the state board shall transfer to the
3547 | member's ~~participant's~~ account any amount previously transferred
3548 | from the member's ~~participant's~~ accounts to the suspense
3549 | account, plus actual earnings on such amount while in the
3550 | suspense account.

3551 | (c) ~~(b)~~1. With respect to amounts contributed by an
3552 | employer and transferred from the pension plan to the investment
3553 | plan, plus interest and earnings, and less investment fees and
3554 | administrative charges, a member ~~participant~~ shall be vested in
3555 | the amount transferred upon meeting the service requirements for
3556 | the member's ~~participant's~~ membership class as set forth in s.
3557 | 121.021(29). The third-party administrator shall account for
3558 | such amounts for each member ~~participant~~. The division shall
3559 | notify the member ~~participant~~ and the third-party administrator
3560 | when the member ~~participant~~ has satisfied the vesting period for
3561 | Florida Retirement System purposes.

3562 | 2. If the member ~~participant~~ terminates employment before
3563 | satisfying the vesting requirements, the nonvested accumulation
3564 | must be transferred from the member's ~~participant's~~ accounts to
3565 | the state board for deposit and investment by the state board in
3566 | the suspense account created within the Investment Plan ~~Public~~

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3567 ~~Employee Optional Retirement Program~~ Trust Fund. If the
3568 terminated member participant is reemployed as an eligible
3569 employee within 5 years, the state board shall transfer to the
3570 member's participant's account any amount previously transferred
3571 from the member's participant's accounts to the suspense
3572 account, plus the actual earnings on such amount while in the
3573 suspense account.

3574 (d) ~~(e)~~ Any nonvested accumulations transferred from a
3575 member's participant's account to the state board's suspense
3576 account shall be forfeited, including accompanying service
3577 credit, by the member participant if the member participant is
3578 not reemployed as an eligible employee within 5 years after
3579 termination.

3580 (e) If the member elects to receive any of his or her
3581 vested employee or employer contributions upon termination of
3582 employment as defined in s. 121.021, except for a mandatory
3583 distribution of a de minimis account authorized by the state
3584 board or a minimum required distribution provided by s.
3585 401(a) (9) of the Internal Revenue Code, the member shall forfeit
3586 all nonvested employer contributions, and accompanying service
3587 credit, paid on behalf of the member to the investment plan.

3588 (7) BENEFITS.—Under the investment plan ~~Public Employee~~
3589 ~~Investment Optional Retirement Program~~, benefits shall:

3590 (a) ~~Benefits shall~~ Be provided in accordance with s. 401(a)
3591 of the Internal Revenue Code.

3592 (b) ~~Benefits shall~~ Accrue in individual accounts that are
3593 member-directed participant-directed, portable, and funded by

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3594 employer and employee ~~participant~~ contributions and earnings
3595 thereon.

3596 (c) ~~Benefits shall~~ Be payable in accordance with ~~the~~
3597 ~~provisions of~~ s. 121.591.

3598 (8) INVESTMENT PLAN ADMINISTRATION OF PROGRAM.—

3599 ~~(a)~~ The investment plan ~~Optional Retirement program~~ shall
3600 be administered by the state board and affected employers. The
3601 state board may require oaths, by affidavit or otherwise, and
3602 acknowledgments from persons in connection with the
3603 administration of its statutory duties and responsibilities for
3604 the investment plan. An oath, by affidavit or otherwise, may not
3605 be required of a member ~~an employee participant~~ at the time of
3606 enrollment. For members initially enrolled prior to July 1,
3607 2011, acknowledgment of an employee's election to participate in
3608 the program shall be no greater than necessary to confirm the
3609 employee's election. The state board shall adopt rules to carry
3610 out its statutory duties with respect to administering the
3611 investment plan ~~optional retirement program~~, including
3612 establishing the roles and responsibilities of affected state,
3613 local government, and education-related employers, the state
3614 board, the department, and third-party contractors. The
3615 department shall adopt rules necessary to administer the
3616 investment plan ~~optional program~~ in coordination with the
3617 defined benefit program and the disability benefits available
3618 under the investment plan ~~optional program~~.

3619 (a) ~~(b)~~1. The state board shall select and contract with a
3620 ~~one~~ third-party administrator to provide administrative services

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3621 | if those services cannot be competitively and contractually
3622 | provided by the division ~~of Retirement within the Department of~~
3623 | ~~Management Services~~. With the approval of the state board, the
3624 | third-party administrator may subcontract ~~with other~~
3625 | ~~organizations or individuals~~ to provide components of the
3626 | administrative services. As a cost of administration, the state
3627 | board may compensate any such contractor for its services, in
3628 | accordance with the terms of the contract, as is deemed
3629 | necessary or proper by the board. The third-party administrator
3630 | may not be an approved provider or be affiliated with an
3631 | approved provider.

3632 | 2. These administrative services may include, but are not
3633 | limited to, enrollment of eligible employees, collection of
3634 | employer and employee participant contributions, disbursement of
3635 | ~~such~~ contributions to approved providers in accordance with the
3636 | allocation directions of member participants; services relating
3637 | to consolidated billing; individual and collective recordkeeping
3638 | and accounting; asset purchase, control, and safekeeping; and
3639 | direct disbursement of funds to and from the third-party
3640 | administrator, the division, the state board, employers, members
3641 | ~~participants~~, approved providers, and beneficiaries. This
3642 | section does not prevent or prohibit a bundled provider from
3643 | providing any administrative or customer service, including
3644 | accounting and administration of individual member participant
3645 | benefits and contributions; individual member participant
3646 | recordkeeping; asset purchase, control, and safekeeping; direct
3647 | execution of the member's participant's instructions as to asset

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3648 | and contribution allocation; calculation of daily net asset
3649 | values; direct access to member ~~participant~~ account information;
3650 | or periodic reporting to members ~~participants~~, at least
3651 | quarterly, on account balances and transactions, if these
3652 | services are authorized by the state board as part of the
3653 | contract.

3654 | **(b) 1.3.** The state board shall select and contract with one
3655 | or more organizations to provide educational services. With
3656 | approval of the state board, the organizations may subcontract
3657 | ~~with other organizations or individuals~~ to provide components of
3658 | the educational services. As a cost of administration, the state
3659 | board may compensate any such contractor for its services in
3660 | accordance with the terms of the contract, as is deemed
3661 | necessary or proper by the board. The education organization may
3662 | not be an approved provider or be affiliated with an approved
3663 | provider.

3664 | **2.4.** Educational services shall be designed by the state
3665 | board and department to assist employers, eligible employees,
3666 | members ~~participants~~, and beneficiaries in order to maintain
3667 | compliance with United States Department of Labor regulations
3668 | under s. 404(c) of the Employee Retirement Income Security Act
3669 | of 1974 and to assist employees in understanding their ~~choice of~~
3670 | ~~defined benefit or defined contribution~~ retirement plan, and
3671 | when applicable, the choice between the pension plan and the
3672 | investment plan alternatives. Educational services include, but
3673 | are not limited to, disseminating educational materials;
3674 | providing retirement planning education; explaining the

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3675 ~~differences between the~~ pension ~~defined benefit retirement~~ plan
3676 and the investment ~~defined contribution retirement~~ plan; and
3677 offering financial planning guidance on matters such as
3678 investment diversification, investment risks, investment costs,
3679 and asset allocation. An approved provider may also provide
3680 educational information, including retirement planning and
3681 investment allocation information concerning its products and
3682 services.

3683 (c)1. In evaluating and selecting a third-party
3684 administrator, the state board shall establish criteria for
3685 evaluating ~~under which it shall consider~~ the relative
3686 capabilities and qualifications of each proposed administrator.
3687 In developing such criteria, the state board shall consider:

3688 a. The administrator's demonstrated experience in providing
3689 administrative services to public or private sector retirement
3690 systems.

3691 b. The administrator's demonstrated experience in providing
3692 daily valued recordkeeping to defined contribution programs
3693 plans.

3694 c. The administrator's ability and willingness to
3695 coordinate its activities with ~~the Florida Retirement System~~
3696 employers, the state board, and the division, and to supply to
3697 such employers, the board, and the division the information and
3698 data they require, including, but not limited to, monthly
3699 management reports, quarterly member ~~participant~~ reports, and ad
3700 hoc reports requested by the department or state board.

3701 d. The cost-effectiveness and levels of the administrative

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3702 services provided.

3703 e. The administrator's ability to interact with the members
3704 ~~participants~~, the employers, the state board, the division, and
3705 the providers; the means by which members ~~participants~~ may
3706 access account information, direct investment of contributions,
3707 make changes to their accounts, transfer moneys between
3708 available investment vehicles, and transfer moneys between
3709 investment products; and any fees that apply to such activities.

3710 f. Any other factor deemed necessary by the ~~Trustees of the~~
3711 state board ~~of Administration~~.

3712 2. In evaluating and selecting an educational provider, the
3713 state board shall establish criteria under which it shall
3714 consider the relative capabilities and qualifications of each
3715 proposed educational provider. In developing such criteria, the
3716 board shall consider:

3717 a. Demonstrated experience in providing educational
3718 services to public or private sector retirement systems.

3719 b. Ability and willingness to coordinate its activities
3720 with the ~~Florida Retirement System~~ employers, the state board,
3721 and the division, and to supply to such employers, the board,
3722 and the division the information and data they require,
3723 including, but not limited to, reports on educational contacts.

3724 c. The cost-effectiveness and levels of the educational
3725 services provided.

3726 d. Ability to provide educational services via different
3727 media, including, but not limited to, the Internet, personal
3728 contact, seminars, brochures, and newsletters.

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3729 e. Any other factor deemed necessary by the ~~Trustees of the~~
3730 state board ~~of Administration~~.

3731 3. The establishment of the criteria shall be solely within
3732 the discretion of the state board.

3733 (d) The state board shall develop the form and content of
3734 any contracts to be offered under the investment plan ~~Public~~
3735 ~~Employee Optional Retirement program~~. In developing the ~~its~~
3736 contracts, the board shall ~~must~~ consider:

3737 1. The nature and extent of the rights and benefits to be
3738 afforded in relation to the ~~required~~ contributions required
3739 under the plan ~~program~~.

3740 2. The suitability of the rights and benefits provided ~~to~~
3741 ~~be afforded~~ and the interests of employers in the recruitment
3742 and retention of eligible employees.

3743 (e)1. The state board may contract ~~with any consultant~~ for
3744 professional services, including legal, consulting, accounting,
3745 and actuarial services, deemed necessary to implement and
3746 administer the investment plan ~~optional program by the Trustees~~
3747 ~~of the state board of Administration~~. The board may enter into a
3748 contract with one or more vendors to provide low-cost investment
3749 advice to members ~~participants~~, supplemental to education
3750 provided by the third-party administrator. All fees under ~~any~~
3751 such contract shall be paid by those members ~~participants~~ who
3752 choose to use the services of the vendor.

3753 2. The department may contract ~~with consultants~~ for
3754 professional services, including legal, consulting, accounting,
3755 and actuarial services, deemed necessary to implement and

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3756 administer the investment plan ~~optional program~~ in coordination
3757 with the pension plan ~~defined benefit program of the Florida~~
3758 ~~Retirement System~~. The department, in coordination with the
3759 state board, may enter into a contract with the third-party
3760 administrator in order to coordinate services common to the
3761 various programs within the Florida Retirement System.

3762 (f) The third-party administrator may ~~shall~~ not receive
3763 direct or indirect compensation from an approved provider,
3764 except as specifically provided for in the contract with the
3765 state board.

3766 (g) The state board shall receive and resolve member
3767 ~~participant~~ complaints against the program, the third-party
3768 administrator, or any program vendor or provider; shall resolve
3769 any conflict between the third-party administrator and an
3770 approved provider if such conflict threatens the implementation
3771 or administration of the program or the quality of services to
3772 employees and may resolve any other conflicts. The third-party
3773 administrator shall retain all member ~~participants~~ records for
3774 at least 5 years for use in resolving any member ~~participant~~
3775 conflicts. The state board, the third-party administrator, or a
3776 provider is not required to produce documentation or an audio
3777 recording to justify action taken with regard to a member
3778 ~~participant~~ if the action occurred 5 or more years before the
3779 complaint is submitted to the state board. It is presumed that
3780 all action taken 5 or more years before the complaint is
3781 submitted was taken at the request of the member ~~participant~~ and
3782 with the member's ~~participant's~~ full knowledge and consent. To

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3783 overcome this presumption, the member ~~participant~~ must present
3784 documentary evidence or an audio recording demonstrating
3785 otherwise.

3786 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

3787 (a) The state board shall develop policy and procedures for
3788 selecting, evaluating, and monitoring the performance of
3789 approved providers and investment products ~~to which employees~~
3790 ~~may direct retirement contributions~~ under the investment plan
3791 ~~program~~. In accordance with such policy and procedures, the
3792 state board shall designate and contract for a number of
3793 investment products as determined by the board. The board shall
3794 also select one or more bundled providers, each of which ~~whom~~
3795 may offer multiple investment options and related services, if
3796 ~~when~~ such ~~an~~ approach is determined by the board to provide
3797 ~~afford~~ value to the members ~~participants~~ otherwise not available
3798 through individual investment products. Each approved bundled
3799 provider may offer investment options that provide members
3800 ~~participants~~ with the opportunity to invest in each of the
3801 following asset classes, to be composed of individual options
3802 that represent ~~either~~ a single asset class or a combination
3803 thereof: money markets, United States fixed income, United
3804 States equities, and foreign stock. The state board shall review
3805 and manage all educational materials, contract terms, fee
3806 schedules, and other aspects of ~~the~~ approved provider
3807 relationships to ensure that no provider is unduly favored or
3808 penalized by virtue of its status within the investment plan.

3809 (b) The state board shall consider investment options or

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3810 products it considers appropriate to give members ~~participants~~
3811 the opportunity to accumulate retirement benefits, subject to
3812 the following:

3813 1. The investment plan ~~Public Employee Optional Retirement~~
3814 ~~program~~ must offer a diversified mix of low-cost investment
3815 products that span the risk-return spectrum and may include a
3816 guaranteed account as well as investment products, such as
3817 individually allocated guaranteed and variable annuities, which
3818 meet the requirements of this subsection and combine the ability
3819 to accumulate investment returns with the option of receiving
3820 lifetime income consistent with the long-term retirement
3821 security of a pension plan and similar to the lifetime-income
3822 benefit provided by the Florida Retirement System.

3823 2. Investment options or products offered by ~~the group of~~
3824 approved providers may include mutual funds, group annuity
3825 contracts, individual retirement annuities, interests in trusts,
3826 collective trusts, separate accounts, and other such financial
3827 instruments, and ~~may include~~ products that give members
3828 ~~participants~~ the option of committing their contributions for an
3829 extended time period in an effort to obtain returns higher than
3830 those that could be obtained from investment products offering
3831 full liquidity.

3832 3. The state board may ~~shall~~ not contract with a ~~any~~
3833 provider that imposes a front-end, back-end, contingent, or
3834 deferred sales charge, or any other fee that limits or restricts
3835 the ability of members ~~participants~~ to select any investment
3836 product available in the investment plan ~~optional program~~. This

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3837 prohibition does not apply to fees or charges that are imposed
3838 on withdrawals from products that give members ~~participants~~ the
3839 option of committing ~~their~~ contributions for an extended time
3840 period in an effort to obtain returns higher than those that
3841 could be obtained from investment products offering full
3842 liquidity, provided that the product ~~in question~~, net of all
3843 fees and charges, produces material benefits relative to other
3844 comparable products in the investment plan ~~program~~ offering full
3845 liquidity.

3846 4. Fees or charges for insurance features, such as
3847 mortality and expense-risk charges, must be reasonable relative
3848 to the benefits provided.

3849 (c) In evaluating and selecting approved providers and
3850 products, the state board shall establish criteria for
3851 evaluating ~~under which it shall consider~~ the relative
3852 capabilities and qualifications of each proposed provider
3853 company and product. In developing such criteria, the board
3854 shall consider the following to the extent such factors may be
3855 applied in connection with investment products, services, or
3856 providers:

3857 1. Experience in the United States providing retirement
3858 products and related financial services under a defined
3859 contribution retirement program ~~plans~~.

3860 2. Financial strength and stability as ~~which shall be~~
3861 evidenced by the highest ratings assigned by nationally
3862 recognized rating services when comparing proposed providers
3863 that are so rated.

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- 3864 3. Intrastate and interstate portability of the product
3865 offered, including early withdrawal options.
- 3866 4. Compliance with the Internal Revenue Code.
- 3867 5. The cost-effectiveness of the product provided and the
3868 levels of service supporting the product relative to its
3869 benefits and its characteristics, including, ~~without limitation,~~
3870 the level of risk borne by the provider.
- 3871 6. The provider company's ability and willingness to
3872 coordinate its activities with Florida Retirement System
3873 employers, the department, and the state board, and to supply ~~to~~
3874 the ~~such~~ employers, the department, and the board with the
3875 information and data they require.
- 3876 7. The methods available to members ~~participants~~ to
3877 interact with the provider company; the means by which members
3878 ~~participants~~ may access account information, direct investment
3879 of contributions, make changes to their accounts, transfer
3880 moneys between available investment vehicles, and transfer
3881 moneys between provider companies; and any fees that apply to
3882 such activities.
- 3883 8. The provider company's policies with respect to the
3884 transfer of individual account balances, contributions, and
3885 earnings thereon, both internally among investment products
3886 offered by the provider company and externally between approved
3887 providers, as well as any fees, charges, reductions, or
3888 penalties that may be applied.
- 3889 9. An evaluation of specific investment products, taking
3890 into account each product's experience in meeting its investment

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3891 return objectives net of all related fees, expenses, and
3892 charges, including, but not limited to, investment management
3893 fees, loads, distribution and marketing fees, custody fees,
3894 recordkeeping fees, education fees, annuity expenses, and
3895 consulting fees.

3896 10. Organizational factors, including, but not limited to,
3897 financial solvency, organizational depth, and experience in
3898 providing institutional and retail investment services.

3899 (d) By March 1, 2010, the state board shall identify and
3900 offer at least one terror-free investment product that allocates
3901 its funds among securities not subject to divestiture as
3902 provided in s. 215.473 if the investment product is deemed by
3903 the board to be consistent with prudent investor standards. No
3904 person may bring a civil, criminal, or administrative action
3905 against an approved provider; the state board; or any employee,
3906 officer, director, or trustee of such provider based upon the
3907 divestiture of any security or the offering of a terror-free
3908 investment product as specified in this paragraph.

3909 (e) As a condition of offering an ~~any~~ investment option or
3910 product in the investment plan ~~optional retirement program~~, the
3911 approved provider must agree to make the investment product or
3912 service available under the most beneficial terms offered to any
3913 other customer, subject to approval by the ~~Trustees of the state~~
3914 board ~~of Administration~~.

3915 (f) The state board shall regularly review the performance
3916 of each approved provider and product and related organizational
3917 factors to ensure continued compliance with established

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3918 selection criteria and with board policy and procedures.
3919 Providers and products may be terminated subject to contract
3920 provisions. The state board shall adopt procedures to transfer
3921 account balances from terminated products or providers to other
3922 products or providers in the investment plan ~~optional program~~.
3923 (g)1. An approved provider shall comply with all applicable
3924 federal and state securities and insurance laws and regulations
3925 ~~applicable to the provider~~, as well as with the applicable rules
3926 and guidelines of the National Association of Securities Dealers
3927 which govern the ethical marketing of investment products. In
3928 furtherance of this mandate, an approved provider must agree in
3929 its contract with the state board to establish and maintain a
3930 compliance education and monitoring system to supervise the
3931 activities of all personnel who directly communicate with
3932 individual members ~~participants~~ and recommend investment
3933 products, which system is consistent with rules of the National
3934 Association of Securities Dealers.
3935 2. Approved provider personnel who directly communicate
3936 with individual participants and who recommend investment
3937 products shall make an independent and unbiased determination as
3938 to whether an investment product is suitable for a particular
3939 member ~~participant~~.
3940 3. The state board shall develop procedures to receive and
3941 resolve member ~~participant~~ complaints against a provider or
3942 approved provider personnel, and, if ~~when~~ appropriate, refer
3943 such complaints to the appropriate agency.
3944 4. Approved providers may not sell or in any way distribute

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3945 any customer list or member ~~participant~~ identification
3946 information generated through their offering of products or
3947 services through the investment plan ~~optional retirement~~
3948 ~~program~~.

3949 (10) EDUCATION COMPONENT.—

3950 ~~(a)~~ The state board, in coordination with the department,
3951 shall provide for an education component for system members in a
3952 manner consistent with the provisions of this section. ~~The~~
3953 ~~education component must be available to eligible employees at~~
3954 ~~least 90 days prior to the beginning date of the election period~~
3955 ~~for the employees of the respective types of employers.~~

3956 (b) The education component must provide system members
3957 with impartial and balanced information about plan choices for
3958 members initially enrolled prior to July 1, 2011. The education
3959 component must involve multimedia formats. Program comparisons
3960 must, to the greatest extent possible, be based upon the
3961 retirement income that different retirement programs may provide
3962 to the participant. The board shall monitor the performance of
3963 the contract to ensure that the program is conducted in
3964 accordance with the contract, applicable law, and the rules of
3965 the board.

3966 (c) The board, in coordination with the department, shall
3967 provide for an initial and ongoing transfer education component
3968 to provide system members initially enrolled prior to July 1,
3969 2011, with information necessary to make informed plan choice
3970 decisions. The transfer education component must include, but is
3971 not limited to, information on:

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3972 1. The amount of money available to a member to transfer to
3973 the defined contribution program.

3974 2. The features of and differences between the defined
3975 benefit program and the defined contribution program, both
3976 generally and specifically, as those differences may affect the
3977 member.

3978 3. The expected benefit available if the member were to
3979 retire under each of the retirement programs, based on
3980 appropriate alternative sets of assumptions.

3981 4. The rate of return from investments in the defined
3982 contribution program and the period of time over which such rate
3983 of return must be achieved to equal or exceed the expected
3984 monthly benefit payable to the member under the defined benefit
3985 program.

3986 5. The historical rates of return for the investment
3987 alternatives available in the defined contribution programs.

3988 6. The benefits and historical rates of return on
3989 investments available in a typical deferred compensation plan or
3990 a typical plan under s. 403(b) of the Internal Revenue Code for
3991 which the employee may be eligible.

3992 7. The program choices available to employees of the State
3993 University System and the comparative benefits of each available
3994 program, if applicable.

3995 8. Payout options available in each of the retirement
3996 programs.

3997 (d) An ongoing education and communication component must
3998 provide eligible employees ~~system members~~ with information

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3999 necessary to make informed decisions about choices within their
4000 retirement system ~~program of membership~~ and in preparation for
4001 retirement. The component must include, but is not limited to,
4002 information concerning:

- 4003 1. Rights and conditions of membership.
- 4004 2. Benefit features within the program, options, and
4005 effects of certain decisions.
- 4006 3. Coordination of contributions and benefits with a
4007 deferred compensation plan under s. 457 or a plan under s.
4008 403(b) of the Internal Revenue Code.
- 4009 4. Significant program changes.
- 4010 5. Contribution rates and program funding status.
- 4011 6. Planning for retirement.

4012 (e) Descriptive materials must be prepared under the
4013 assumption that the employee is an unsophisticated investor, and
4014 all materials used in the education component must be approved
4015 by the state board before ~~prior to~~ dissemination.

4016 (f) The state board and the department shall also establish
4017 a communication component to provide program information to
4018 participating employers and the employers' personnel and payroll
4019 officers and to explain their respective responsibilities in
4020 conjunction with the retirement programs.

4021 (g) Funding for education of new employees may reflect
4022 administrative costs to the investment plan ~~optional program~~ and
4023 the pension plan ~~defined benefit program~~.

4024 (h) Pursuant to paragraph (8)(a), all Florida Retirement
4025 System employers have an obligation to regularly communicate the

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4026 existence of the two Florida Retirement System plans and the
4027 plan choice in the natural course of administering their
4028 personnel functions, using the educational materials supplied by
4029 the state board and the Department of Management Services.

4030 (11) MEMBER PARTICIPANT INFORMATION REQUIREMENTS.—The state
4031 board shall ensure that each member participant is provided a
4032 quarterly statement that accounts for ~~the~~ contributions made on
4033 behalf of the member ~~such participant~~; the interest and
4034 investment earnings thereon; and any fees, penalties, or other
4035 deductions that apply ~~thereto~~. At a minimum, such statements
4036 must:

4037 (a) Indicate the member's ~~participant's~~ investment options.

4038 (b) State the market value of the account at the close of
4039 the current quarter and previous quarter.

4040 (c) Show account gains and losses ~~for the period~~ and
4041 changes in account accumulation unit values for the quarter
4042 period.

4043 (e) Indicate any account changes due to adjustment of
4044 contribution levels, reallocation of contributions, balance
4045 transfers, or withdrawals.

4046 (f) Set forth any fees, charges, penalties, and deductions
4047 that apply to the account.

4048 (g) Indicate the amount of the account in which the member
4049 ~~participant~~ is fully vested and the amount of the account in
4050 which the member participant is not vested.

4051 (h) Indicate each investment product's performance relative
4052 to an appropriate market benchmark.

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4053
4054 The third-party administrator shall provide quarterly and annual
4055 summary reports to the state board and any other reports
4056 requested by the department or the board. In any solicitation or
4057 offer of coverage under the investment plan ~~an optional~~
4058 ~~retirement program~~, a provider company shall be governed by the
4059 contract readability provisions of s. 627.4145, notwithstanding
4060 s. 627.4145(6)(c). In addition, all descriptive materials must
4061 be prepared under the assumption that the member participant is
4062 an unsophisticated investor. Provider companies must maintain an
4063 internal system of quality assurance, have proven functional
4064 systems that are date-calculation compliant, and be subject to a
4065 due-diligence inquiry that proves their capacity and fitness to
4066 undertake service responsibilities.

4067 (12) ADVISORY COUNCIL TO PROVIDE ADVICE AND ASSISTANCE.—The
4068 Investment Advisory Council, created pursuant to s. 215.444,
4069 shall assist the state board in implementing and administering
4070 the investment plan ~~Public Employee Optional Retirement Program~~.
4071 ~~The Investment Advisory council, created pursuant to s. 215.444,~~
4072 shall review the state board's initial recommendations regarding
4073 the criteria to be used in selecting and evaluating approved
4074 providers and investment products. The council may provide
4075 comments on the recommendations to the board within 45 days
4076 after receiving the initial recommendations. The state board
4077 shall make the final determination as to whether any investment
4078 provider or product, any contractor, or any and all contract
4079 provisions are ~~shall be~~ approved for the investment plan

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4080 | ~~program.~~

4081 | (13) FEDERAL REQUIREMENTS.—

4082 | (a) ~~Provisions of~~ This section shall be construed, and the
4083 | investment plan ~~Public Employee Optional Retirement program~~
4084 | shall be administered, so as to comply with the Internal Revenue
4085 | Code, 26 U.S.C., and specifically with plan qualification
4086 | requirements imposed on governmental plans under s. 401(a) of
4087 | the Internal Revenue Code. The state board may ~~shall have the~~
4088 | ~~power and authority to~~ adopt rules reasonably necessary to
4089 | establish or maintain the qualified status of the investment
4090 | plan ~~Optional Retirement program~~ under the Internal Revenue Code
4091 | and to implement and administer the investment plan ~~Optional~~
4092 | ~~Retirement program~~ in compliance with the Internal Revenue Code
4093 | and as designated under this part; ~~provided however, that the~~
4094 | ~~board shall not have the authority to adopt any rule which makes~~
4095 | ~~a substantive change to the Optional Retirement Program as~~
4096 | ~~designed by this part.~~

4097 | (b) Any section or provision of this chapter which is
4098 | susceptible to more than one construction shall ~~must~~ be
4099 | interpreted in favor of the construction most likely to satisfy
4100 | requirements imposed by s. 401(a) of the Internal Revenue Code.

4101 | (c) Contributions payable under this section for any
4102 | limitation year may not exceed the maximum amount allowable for
4103 | qualified defined contribution pension plans under applicable
4104 | provisions of the Internal Revenue Code. If an employee who is
4105 | enrolled ~~who has elected to participate~~ in the investment plan
4106 | ~~Public Employee Optional Retirement Program~~ participates in any

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4107 other plan that is maintained by the participating employer,
4108 benefits that accrue under the investment plan ~~Public Employee~~
4109 ~~Optional Retirement program~~ shall be considered primary for any
4110 aggregate limitation applicable under s. 415 of the Internal
4111 Revenue Code.

4112 (14) INVESTMENT POLICY STATEMENT.—

4113 (a) Investment products and approved providers selected for
4114 the investment plan ~~Public Employee Optional Retirement program~~
4115 must shall conform with the Florida Retirement System Investment
4116 Plan ~~Public Employee Optional Retirement Program~~ Investment
4117 Policy Statement, herein referred to as the "statement," as
4118 developed and approved by the Trustees of the state board of
4119 ~~Administration~~. The statement must include, among other items,
4120 the investment objectives of the investment plan ~~Public Employee~~
4121 ~~Optional Retirement program~~, manager selection and monitoring
4122 guidelines, and performance measurement criteria. As required
4123 from time to time, the executive director of the state board may
4124 present recommended changes in the statement to the board for
4125 approval.

4126 (b) Before ~~Prior to~~ presenting the statement, or any
4127 recommended changes ~~thereto~~, to the state board, the executive
4128 director of the board shall present such statement or changes to
4129 the Investment Advisory Council for review. The council shall
4130 present the results of its review to the board prior to the
4131 board's final approval of the statement or changes in the
4132 statement.

4133 (15) STATEMENT OF FIDUCIARY STANDARDS AND

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4134 RESPONSIBILITIES.—

4135 (a) Investment of ~~optional~~ defined contribution ~~retirement~~
4136 plan assets shall be made for the sole interest and exclusive
4137 purpose of providing benefits to members ~~plan participants~~ and
4138 beneficiaries and defraying reasonable expenses of administering
4139 the plan. The program's assets shall ~~are to~~ be invested, on
4140 behalf of the program members ~~participants~~, with the care,
4141 skill, and diligence that a prudent person acting in a like
4142 manner would undertake. The performance of the investment duties
4143 set forth in this paragraph shall comply with the fiduciary
4144 standards set forth in the Employee Retirement Income Security
4145 Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). In case of
4146 conflict with other provisions of law authorizing investments,
4147 the investment and fiduciary standards set forth in this
4148 subsection shall prevail.

4149 (b) If a member ~~participant~~ or beneficiary of the
4150 investment plan ~~Public Employee Optional Retirement program~~
4151 exercises control over the assets in his or her account, as
4152 determined by reference to regulations of the United States
4153 Department of Labor under s. 404(c) of the Employee Retirement
4154 Income Security Act of 1974 and all applicable laws governing
4155 the operation of the program, a ~~no~~ program fiduciary is not
4156 ~~shall be~~ liable for any loss to a member's ~~participant's~~ or
4157 beneficiary's account which results from the member's ~~such~~
4158 ~~participant's~~ or beneficiary's exercise of control.

4159 (c) Subparagraph (8)(b)2. ~~(8)(b)4.~~ and paragraph (15)(b)
4160 incorporate the federal law concept of participant control,

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4161 established by regulations of the United States Department of
4162 Labor under s. 404(c) of the Employee Retirement Income Security
4163 Act of 1974 (ERISA). The purpose of this paragraph is to assist
4164 employers and the state board of ~~Administration~~ in maintaining
4165 compliance with s. 404(c), while avoiding unnecessary costs and
4166 eroding member participant benefits under the investment plan
4167 ~~Public Employee Optional Retirement program~~. Pursuant to 29
4168 C.F.R. s. 2550.404c-1(b)(2)(i)(B)(1)(viii), the state board of ~~of~~
4169 ~~Administration~~ or its designated agents shall deliver to members
4170 ~~participants~~ of the investment plan ~~Public Employee Optional~~
4171 ~~Retirement program~~ a copy of the prospectus most recently
4172 provided to the plan, and, pursuant to 29 C.F.R. s. 2550.404c-
4173 1(b)(2)(i)(B)(2)(ii), shall provide such members participants an
4174 opportunity to obtain this information, except that:

4175 1. The requirement to deliver a prospectus shall be ~~deemed~~
4176 ~~to be~~ satisfied by delivery of a fund profile or summary profile
4177 that contains the information that would be included in a
4178 summary prospectus as described by Rule 498 under the Securities
4179 Act of 1933, 17 C.F.R. s. 230.498. If ~~When~~ the transaction fees,
4180 expense information, or other information provided by a mutual
4181 fund in the prospectus does not reflect terms negotiated by the
4182 state board of ~~Administration~~ or its designated agents, the
4183 ~~aforementioned~~ requirement is ~~deemed to be~~ satisfied by delivery
4184 of a separate document described by Rule 498 substituting
4185 accurate information; and

4186 2. Delivery shall be ~~deemed to have been~~ effected if
4187 delivery is through electronic means and the following standards

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4188 are satisfied:

4189 a. Electronically-delivered documents are prepared and
4190 provided consistent with style, format, and content requirements
4191 applicable to printed documents;

4192 b. Each member ~~participant~~ is provided timely and adequate
4193 notice of the documents that are to be delivered and their
4194 significance thereof, and of the member's ~~participant's~~ right to
4195 obtain a paper copy of such documents free of charge;

4196 c. ~~(I) Members Participants~~ have adequate access to the
4197 electronic documents, at locations such as their worksites or
4198 public facilities, and have the ability to convert the documents
4199 to paper free of charge by the state board ~~of Administration,~~
4200 and the board or its designated agents take appropriate and
4201 reasonable measures to ensure that the system for furnishing
4202 electronic documents results in actual receipt. ~~7 or~~

4203 ~~(II) Members Participants~~ have provided consent to receive
4204 information in electronic format, which consent may be revoked;
4205 and

4206 d. The state board ~~of Administration,~~ or its designated
4207 agent, actually provides paper copies of the documents free of
4208 charge, upon request.

4209 (16) DISABILITY BENEFITS.—For any member ~~participant~~ of the
4210 investment plan ~~optional retirement program~~ who becomes totally
4211 and permanently disabled, benefits must ~~shall~~ be paid in
4212 accordance with the provisions of s. 121.591.

4213 (17) SOCIAL SECURITY COVERAGE.—Social security coverage
4214 shall be provided for all officers and employees who become

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4215 members ~~participants~~ of the investment plan ~~optional program~~.
4216 Any modification of the present agreement with the Social
4217 Security Administration, or referendum required under the Social
4218 Security Act, for the purpose of providing social security
4219 coverage for any member shall be requested by the state agency
4220 in compliance with the applicable provisions of the Social
4221 Security Act governing such coverage. However, retroactive
4222 social security coverage for service before ~~prior to~~ December 1,
4223 1970, with the employer may ~~shall~~ not be provided for any member
4224 who was not covered under the agreement as of November 30, 1970.

4225 (18) RETIREE HEALTH INSURANCE SUBSIDY.—All officers and
4226 employees who are members ~~participants~~ of the investment plan
4227 ~~optional program~~ are ~~shall be~~ eligible to receive the retiree
4228 health insurance subsidy, subject to the provisions of s.
4229 112.363.

4230 (19) MEMBER PARTICIPANT RECORDS.—Personal identifying
4231 information of a member ~~participant~~ in the investment plan
4232 ~~Public Employee Optional Retirement program~~ contained in Florida
4233 Retirement System records held by the state board of
4234 ~~Administration~~ or the department of ~~Management Services~~ is
4235 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
4236 Constitution.

4237 (20) DESIGNATION OF BENEFICIARIES.—

4238 (a) Each member ~~participant~~ may, by electronic means or on
4239 a form provided for that purpose, signed and filed with the
4240 third-party administrator, designate a choice of one or more
4241 persons, named sequentially or jointly, as his or her

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4242 beneficiary for receiving ~~who shall receive~~ the benefits, if
4243 any, which may be payable pursuant to this chapter in the event
4244 of the member's ~~participant's~~ death. If no beneficiary is named
4245 in this manner, or if no beneficiary designated by the member
4246 ~~participant~~ survives the member ~~participant~~, the beneficiary
4247 shall be the spouse of the deceased, if living. If the member's
4248 ~~participant's~~ spouse is not alive at the time of the
4249 beneficiary's ~~his or her~~ death, the beneficiary shall be the
4250 living children of the member ~~participant~~. If no children
4251 survive, the beneficiary shall be the member's ~~participant's~~
4252 father or mother, if living; otherwise, the beneficiary shall be
4253 the member's ~~participant's~~ estate. The beneficiary most recently
4254 designated by a member ~~participant~~ ~~on a form or letter filed~~
4255 ~~with the third-party administrator~~ shall be the beneficiary
4256 entitled to any benefits payable at the time of the member's
4257 ~~participant's~~ death. However ~~Notwithstanding any other provision~~
4258 ~~in this subsection to the contrary~~, for a member ~~participant~~ who
4259 dies before ~~prior to~~ his or her effective date of retirement,
4260 the spouse at the time of death shall be the member's
4261 ~~participant's~~ beneficiary unless the member ~~such participant~~
4262 designates a different beneficiary ~~as provided in this~~
4263 ~~subsection~~ subsequent to the member's ~~participant's~~ most recent
4264 marriage.

4265 (b) If a member ~~participant~~ designates a primary
4266 beneficiary other than the member's ~~participant's~~ spouse, the
4267 member's ~~participant's~~ spouse must sign the beneficiary
4268 designation form to acknowledge the designation. This

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4269 requirement does not apply to the designation of one or more
4270 contingent beneficiaries to receive benefits remaining upon the
4271 death of the primary beneficiary or beneficiaries.

4272 (c) Notwithstanding the member's ~~participant's~~ designation
4273 of benefits to be paid through a trust to a beneficiary that is
4274 a natural person, and ~~notwithstanding~~ the provisions of the
4275 trust, benefits must ~~shall~~ be paid directly to the beneficiary
4276 if the person is no longer a minor or an incapacitated person as
4277 defined in s. 744.102.

4278 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT OPTION
4279 PROGRAM PARTICIPANTS.—Notwithstanding any other provision of law
4280 ~~to the contrary~~, participants in the Deferred Retirement Option
4281 Program offered under part I may, after conclusion of their
4282 participation in the program, elect to roll over or authorize a
4283 direct trustee-to-trustee transfer to an account under the
4284 investment plan ~~Public Employee Optional Retirement Program~~ of
4285 their Deferred Retirement Option Program proceeds distributed as
4286 provided under s. 121.091(13)(c)5. The transaction must
4287 constitute an "eligible rollover distribution" within the
4288 meaning of s. 402(c)(4) of the Internal Revenue Code.

4289 (a) The investment plan ~~Public Employee Optional Retirement~~
4290 ~~program~~ may accept such amounts for deposit into participant
4291 accounts as provided in paragraph (5)(c).

4292 (b) The affected participant shall direct the investment of
4293 his or her investment account; however, unless he or she becomes
4294 a renewed member of the Florida Retirement System under s.
4295 121.122 and elects to participate in the investment plan ~~Public~~

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4296 ~~Employee Optional Retirement program, no employer contributions~~
4297 ~~may not be made to the member's participant's account as~~
4298 ~~provided under paragraph (5) (a).~~

4299 (c) The state board or the department is not responsible
4300 for locating those persons who may be eligible to participate in
4301 the investment plan ~~Public Employee Optional Retirement program~~
4302 under this subsection.

4303 (22) CREDIT FOR MILITARY SERVICE.—Creditable service of any
4304 member of the investment plan ~~Public Employee Optional~~
4305 ~~Retirement Program~~ includes ~~shall include~~ military service in
4306 the Armed Forces of the United States as provided in ~~the~~
4307 ~~conditions outlined in~~ s. 121.111(1).

4308 Section 15. Section 121.4502, Florida Statutes, is amended
4309 to read:

4310 121.4502 Florida Retirement System Investment Plan ~~Public~~
4311 ~~Employee Optional Retirement Program~~ Trust Fund.—

4312 (1) The Florida Retirement System Investment Plan ~~Public~~
4313 ~~Employee Optional Retirement Program~~ Trust Fund is created to
4314 hold the assets of the Florida Retirement System Investment Plan
4315 ~~Public Employee Optional Retirement Program~~ in trust for the
4316 exclusive benefit of such program's participants and
4317 beneficiaries, and for the payment of reasonable administrative
4318 expenses of the program, in accordance with s. 401 of the
4319 Internal Revenue Code, and shall be administered by the State
4320 Board of Administration as trustee. Funds shall be credited to
4321 the trust fund as provided in this part, to be used for the
4322 purposes of this part. The trust fund is exempt from the service

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4323 charges imposed by s. 215.20.

4324 (2) The Investment Plan ~~Public Employee Optional Retirement~~
4325 ~~Program~~ Trust Fund is a retirement trust fund of the Florida
4326 Retirement System that accounts for retirement plan assets held
4327 by the state in a trustee capacity as a fiduciary for individual
4328 participants in the Florida Retirement System Investment Plan
4329 ~~Public Employee Optional Retirement Program~~ and, pursuant to s.
4330 19(f), Art. III of the State Constitution, is not subject to
4331 termination.

4332 (3) A forfeiture account shall be created within the
4333 Investment Plan ~~Public Employee Optional Retirement Program~~
4334 Trust Fund to hold the assets derived from the forfeiture of
4335 benefits by participants. Pursuant to a private letter ruling
4336 from the Internal Revenue Service, the forfeiture account may be
4337 used only for paying expenses of the Florida Retirement System
4338 Investment Plan ~~Public Employee Optional Retirement Program~~ and
4339 reducing future employer contributions to the program.
4340 Consistent with Rulings 80-155 and 74-340 of the Internal
4341 Revenue Service, unallocated reserves within the forfeiture
4342 account must be used as quickly and as prudently as possible
4343 considering the state board's fiduciary duty. Expected
4344 withdrawals from the account must endeavor to reduce the account
4345 to zero each fiscal year.

4346 Section 16. Subsections (1) and (3) of section 121.4503,
4347 Florida Statutes, are amended to read:

4348 121.4503 Florida Retirement System Contributions Clearing
4349 Trust Fund.—

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4350 (1) The Florida Retirement System Contributions Clearing
4351 Trust Fund is created as a clearing fund for disbursing employee
4352 and employer contributions to the component plans of the Florida
4353 Retirement System and shall be administered by the Department of
4354 Management Services. Funds shall be credited to the trust fund
4355 as provided in this chapter and shall be held in trust for the
4356 contributing members and employers until such time as the assets
4357 are transferred by the department to the Florida Retirement
4358 System Trust Fund, the Investment Plan ~~Public Employee Optional~~
4359 ~~Retirement Program~~ Trust Fund, or other trust funds as
4360 authorized by law, to be used for the purposes of this chapter.
4361 The trust fund is exempt from the service charges imposed by s.
4362 215.20.

4363 (3) The Department of Management Services may adopt rules
4364 governing the receipt and disbursement of amounts received by
4365 the Florida Retirement System Contributions Clearing Trust Fund
4366 from employees and employers contributing to the component plans
4367 of the Florida Retirement System.

4368 Section 17. Section 121.571, Florida Statutes, is amended
4369 to read:

4370 121.571 Contributions.—Contributions to the Investment Plan
4371 ~~Public Employee Optional Retirement Program~~ shall be made as
4372 follows:

4373 (1) CONTRIBUTORY ~~NONCONTRIBUTORY~~ PLAN.—Each member and
4374 employer shall submit ~~accomplish the~~ contributions as required
4375 by s. 121.71 ~~by a procedure in which no employee's gross salary~~
4376 ~~shall be reduced.~~

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4377 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund the
4378 retirement and disability benefits provided under this part must
4379 ~~shall~~ be based on the uniform contribution rates established by
4380 s. 121.71 and on the membership class or subclass of the member
4381 ~~participant~~. Such contributions must ~~shall~~ be allocated as
4382 provided in ss. 121.72 and 121.73.

4383 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR
4384 RETIREE HEALTH INSURANCE SUBSIDY.—Contributions required under
4385 s. 121.71 are ~~this section shall be~~ in addition to employer and
4386 member contributions ~~required~~ for social security and the
4387 Retiree Health Insurance Subsidy Trust Fund as required under
4388 ~~provided in~~ ss. 112.363, 121.052, 121.055, and 121.071, as
4389 appropriate.

4390 Section 18. Section 121.591, Florida Statutes, is amended
4391 to read:

4392 121.591 Payment of benefits payable under the Public
4393 ~~Employee Optional Retirement Program of the Florida Retirement~~
4394 ~~System.~~—Benefits may not be paid under the investment plan ~~this~~
4395 ~~section~~ unless the member has terminated employment as provided
4396 in s. 121.021(39)(a) or is deceased and a proper application has
4397 been filed as in the manner prescribed by the state board or the
4398 department. Under the investment plan, benefits are not payable
4399 for employee hardships, unforeseeable emergencies, loans,
4400 medical expenses, educational expenses, purchase of a principal
4401 residence, payments necessary to prevent eviction or foreclosure
4402 on an employee's principal residence, or for any other reason
4403 prior to termination from all employment relationships with

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4404	<u>participating employers, as provided in s. 121.021(39)(a).</u> The	
4405	state board or department, as appropriate, may cancel an	
4406	application for retirement benefits <u>if</u> when the member or	
4407	beneficiary fails to timely provide the information and	
4408	documents required by this chapter and the rules of the state	
4409	board and department. In accordance with their respective	
4410	responsibilities as provided herein , the state board of	
4411	Administration and the department of Management Services shall	
4412	adopt rules establishing procedures for application for	
4413	retirement benefits and for the cancellation of such application	
4414	<u>if</u> when the required information or documents are not received.	
4415	The state board of Administration and the department of	
4416	Management Services , as appropriate, are authorized to cash out	
4417	a de minimis account of a <u>member</u> participant who has been	
4418	terminated from Florida Retirement System covered employment for	
4419	a minimum of 6 calendar months. A de minimis account is an	
4420	account containing <u>member and</u> employer contributions and	
4421	accumulated earnings of not more than \$5,000 made under the	
4422	provisions of this chapter. Such cash-out must either be a	
4423	complete lump-sum liquidation of the account balance, subject to	
4424	the provisions of the Internal Revenue Code, or a lump-sum	
4425	direct rollover distribution paid directly to the custodian of	
4426	an eligible retirement plan, as defined by the Internal Revenue	
4427	Code, on behalf of the <u>member</u> participant . <u>Any nonvested</u>	
4428	<u>accumulations and associated service credit, including amounts</u>	
4429	<u>transferred to the suspense account of the Investment Plan Trust</u>	
4430	<u>Fund authorized under s. 121.4501(6), shall be forfeited upon</u>	

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4431 payment of any vested benefit to a member or beneficiary, except
4432 for de minimis distributions or minimum required distributions
4433 as provided under this section. If any financial instrument
4434 issued for the payment of retirement benefits under this section
4435 is not presented for payment within 180 days after the last day
4436 of the month in which it was originally issued, the third-party
4437 administrator or other duly authorized agent of the state board
4438 ~~of Administration~~ shall cancel the instrument and credit the
4439 amount of the instrument to the suspense account of the
4440 Investment Plan ~~Public Employee Optional Retirement Program~~
4441 Trust Fund authorized under s. 121.4501(6). Any ~~such~~ amounts
4442 transferred to the suspense account are payable upon a proper
4443 application, not to include earnings thereon, as provided in
4444 this section, within 10 years after the last day of the month in
4445 which the instrument was originally issued, after which time
4446 such amounts and any earnings attributable to employer
4447 contributions thereon shall be forfeited. Any ~~such~~ forfeited
4448 amounts are assets of the ~~Public Employee Optional Retirement~~
4449 ~~Program~~ trust fund and are not subject to the provisions of
4450 chapter 717.

4451 (1) NORMAL BENEFITS.—Under the Investment Plan ~~Public~~
4452 ~~Employee Optional Retirement Program~~:

4453 (a) Benefits in the form of vested accumulations as
4454 described in s. 121.4501(6) are payable under this subsection in
4455 accordance with the following terms and conditions:

4456 1. ~~To the extent vested,~~ Benefits are payable only to a
4457 member, alternate payee of a qualified domestics relations

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4458 order, or a beneficiary participant.

4459 2. Benefits shall be paid by the third-party administrator
4460 or designated approved providers in accordance with the law, the
4461 contracts, and any applicable board rule or policy.

4462 3. ~~To receive benefits,~~ The member participant must be
4463 terminated from all employment with all Florida Retirement
4464 System employers, as provided in s. 121.021(39).

4465 4. Benefit payments may not be made until the member
4466 ~~participant~~ has been terminated for 3 calendar months, except
4467 that the state board may authorize by rule for the distribution
4468 of up to 10 percent of the member's participant's account after
4469 being terminated for 1 calendar month if the member participant
4470 has reached the normal retirement date as defined in s. 121.021
4471 ~~of the defined benefit plan.~~

4472 5. If a member or former member of the Florida Retirement
4473 System receives an invalid distribution ~~from the Public Employee~~
4474 ~~Optional Retirement Program Trust Fund,~~ such person must either
4475 repay the full amount ~~invalid distribution to the trust fund~~
4476 within 90 days after receipt of final notification by the state
4477 board or the third-party administrator that the distribution was
4478 invalid, or, in lieu of repayment, the member must terminate
4479 employment from all participating employers. If such person
4480 fails to repay the full invalid distribution within 90 days
4481 after receipt of final notification, the person may be deemed
4482 retired from the investment plan ~~optional retirement program~~ by
4483 the state board, ~~as provided pursuant to s. 121.4501(2)(k),~~ and
4484 is subject to s. 121.122. If such person is deemed retired by

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4485 ~~the state board~~, any joint and several liability set out in s.
 4486 121.091(9)(d)2. is ~~becomes~~ null and void, and the state board,
 4487 the department, or the employing agency is not liable for gains
 4488 on payroll contributions that have not been deposited to the
 4489 person's account in the investment plan ~~retirement program~~,
 4490 pending resolution of the invalid distribution. The member or
 4491 former member who has been deemed retired or who has been
 4492 determined by the state board to have taken an invalid
 4493 distribution may appeal the agency decision through the
 4494 complaint process as provided under s. 121.4501(9)(g)3. As used
 4495 in this subparagraph, the term "invalid distribution" means any
 4496 distribution from an account in the investment plan ~~optional~~
 4497 ~~retirement program~~ which is taken in violation of this section,
 4498 s. 121.091(9), or s. 121.4501.

4499 (b) If a member ~~participant~~ elects to receive his or her
 4500 benefits upon termination of employment as defined in s.
 4501 121.021, the member ~~participant~~ must submit a written
 4502 application or an application by electronic means to the third-
 4503 party administrator indicating his or her preferred distribution
 4504 date and selecting an authorized method of distribution as
 4505 provided in paragraph (c). The member ~~participant~~ may defer
 4506 receipt of benefits until he or she chooses to make such
 4507 application, subject to federal requirements.

4508 (c) Upon receipt by the third-party administrator of a
 4509 properly executed application for distribution of benefits, the
 4510 total accumulated benefit is ~~shall be~~ payable to the member
 4511 participant pro rata across all FRS benefit sources, as:

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4512 1. A lump-sum or partial distribution to the member
4513 participant;

4514 2. A lump-sum direct rollover distribution whereby all
4515 accrued benefits, plus interest and investment earnings, are
4516 paid from the member's ~~participant's~~ account directly to the
4517 custodian of an eligible retirement plan, as defined in s.
4518 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
4519 member participant; or

4520 3. Periodic distributions, as authorized by the state
4521 board.

4522 (d) The distribution payment method selected by the member
4523 or beneficiary, and the retirement of the member or beneficiary,
4524 shall be final and irrevocable at the time a benefit
4525 distribution payment is cashed, deposited, or transferred to
4526 another financial institution. Any additional service that
4527 remains unclaimed at retirement may not be claimed or purchased,
4528 and the type of retirement may not be changed, except that if a
4529 member recovers from a disability, the member may subsequently
4530 request normal service benefits under subsection (2).

4531 (e) A member may not receive a distribution of employee
4532 contributions if a pending qualified domestic relations order is
4533 filed against the member's investment plan account.

4534 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided under
4535 this subsection are payable in lieu of the benefits that ~~which~~
4536 would otherwise be payable under the provisions of subsection
4537 (1). Such benefits must ~~shall~~ be funded ~~entirely~~ from employer
4538 contributions made under s. 121.571, transferred employee

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4539 contributions and funds accumulated pursuant to paragraph (a),
4540 and interest and earnings thereon. Pursuant thereto:

4541 (a) *Transfer of funds.*—To qualify to receive monthly
4542 disability benefits under this subsection:

4543 1. All moneys accumulated in the member's ~~participant's~~
4544 ~~Public Employee Optional Retirement Program~~ accounts, including
4545 vested and nonvested accumulations as described in s.
4546 121.4501(6), must ~~shall~~ be transferred from such individual
4547 accounts to the division ~~of Retirement~~ for deposit in the
4548 disability account of the Florida Retirement System Trust Fund.
4549 Such moneys must ~~shall~~ be ~~separately~~ accounted for separately.
4550 Earnings must ~~shall~~ be credited on an annual basis for amounts
4551 held in the disability accounts ~~of the Florida Retirement System~~
4552 ~~Trust Fund~~ based on actual earnings of the ~~Florida Retirement~~
4553 ~~System~~ trust fund.

4554 2. If the member ~~participant~~ has retained retirement credit
4555 ~~he or she had~~ earned under the pension plan ~~defined benefit~~
4556 ~~program of the Florida Retirement System~~ as provided in s.
4557 121.4501(3) ~~(b)~~, a sum representing the actuarial present value
4558 of such credit within the Florida Retirement System Trust Fund
4559 shall be reassigned by the division ~~of Retirement~~ from the
4560 pension plan ~~defined benefit program~~ to the disability program
4561 as implemented under this subsection and shall be deposited in
4562 the disability account of the ~~Florida Retirement System~~ trust
4563 fund. Such moneys must ~~shall~~ be ~~separately~~ accounted for
4564 separately.

4565 (b) *Disability retirement; entitlement.*—

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4566 1. A member participant of the investment plan ~~Public~~
4567 ~~Employee Optional Retirement program~~ who becomes totally and
4568 permanently disabled, as defined in paragraph (d) ~~s.~~
4569 ~~121.091(4)(b)~~, after completing 8 years of creditable service,
4570 or a member participant who becomes totally and permanently
4571 disabled in the line of duty regardless of ~~his or her~~ length of
4572 service, is ~~shall be~~ entitled to a monthly disability benefit ~~as~~
4573 ~~provided herein.~~

4574 2. In order for service to apply toward the 8 years of
4575 creditable service required ~~to vest~~ for regular disability
4576 benefits, or toward the creditable service used in calculating a
4577 service-based benefit as provided ~~for~~ under paragraph (g), the
4578 service must be creditable service as described below:

4579 a. The member's participant's period of service under the
4580 investment plan ~~Public Employee Optional Retirement program~~
4581 shall ~~will~~ be considered creditable service, except as provided
4582 in subparagraph d.

4583 b. If the member participant has elected to retain credit
4584 for ~~his or her~~ service under the pension plan ~~defined benefit~~
4585 ~~program of the Florida Retirement System~~ as provided under s.
4586 121.4501(3) ~~(b)~~, all such service shall ~~will~~ be considered
4587 creditable service.

4588 c. If the member elects ~~participant has elected~~ to transfer
4589 to his or her member participant accounts a sum representing the
4590 present value of his or her retirement credit under the pension
4591 plan ~~defined benefit program~~ as provided under s. 121.4501(3) ~~s.~~
4592 ~~121.4501(3)(c)~~, the period of service under the pension plan

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4593 ~~defined benefit program~~ represented in the present value amounts
4594 transferred shall will be considered creditable service ~~for~~
4595 ~~purposes of vesting for disability benefits~~, except as provided
4596 in subparagraph d.

4597 d. Whenever a member participant has terminated employment
4598 and has taken distribution of his or her funds as provided in
4599 subsection (1), all creditable service represented by such
4600 distributed funds is forfeited for purposes of this subsection.

4601 (c) *Disability retirement effective date.*—The effective
4602 retirement date for a member participant who applies and is
4603 approved for disability retirement shall be established as
4604 provided under s. 121.091(4)(a)2. and 3.

4605 (d) *Total and permanent disability.*—A member participant
4606 shall be considered totally and permanently disabled if, in the
4607 opinion of the division, he or she is prevented, by reason of a
4608 medically determinable physical or mental impairment, from
4609 rendering useful and efficient service as an officer or
4610 employee.

4611 (e) *Proof of disability.*—~~The division,~~ Before approving
4612 payment of any disability retirement benefit, the division shall
4613 require proof that the member participant is totally and
4614 permanently disabled ~~in the same manner~~ as provided ~~for members~~
4615 ~~of the defined benefit program of the Florida Retirement System~~
4616 under s. 121.091(4)(c).

4617 (f) *Disability retirement benefit.*—Upon the disability
4618 retirement of a member participant under this subsection, the
4619 member participant shall receive a monthly benefit that begins

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4620 accruing ~~shall begin to accrue~~ on the first day of the month of
4621 disability retirement, as approved by the division, and is ~~shall~~
4622 ~~be~~ payable on the last day of that month and each month
4623 thereafter during his or her lifetime and continued disability.
4624 All disability benefits must ~~payable to such member shall~~ be
4625 paid out of the disability account of the Florida Retirement
4626 System Trust Fund established under this subsection.

4627 (g) *Computation of disability retirement benefit.*—The
4628 amount of each monthly payment must ~~shall~~ be calculated ~~in the~~
4629 ~~same manner~~ as provided ~~for members of the defined benefit~~
4630 ~~program of the Florida Retirement System~~ under s. 121.091(4)(f).
4631 ~~For such purpose,~~ Creditable service under both the pension plan
4632 ~~defined benefit program~~ and the investment plan ~~Public Employee~~
4633 ~~Optional Retirement program of the Florida Retirement System~~
4634 shall be applicable as provided under paragraph (b).

4635 (h) *Reapplication.*—A member participant whose initial
4636 application for disability retirement is ~~has been~~ denied may
4637 reapply for disability benefits ~~in the same manner, and under~~
4638 ~~the same conditions,~~ as provided for members of the defined
4639 ~~benefit program of the Florida Retirement System~~ under s.
4640 121.091(4)(g).

4641 (i) *Membership.*—Upon approval of a member's ~~an~~ application
4642 for disability benefits ~~under this subsection,~~ the applicant
4643 shall be transferred to the pension plan ~~defined benefit program~~
4644 ~~of the Florida Retirement System,~~ effective upon his or her
4645 disability retirement effective date.

4646 (j) *Option to cancel.*—A Any member participant whose

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4647 application for disability benefits is approved may cancel the
4648 ~~his or her~~ application if ~~for disability benefits, provided that~~
4649 the cancellation request is received by the division before a
4650 disability retirement warrant has been deposited, cashed, or
4651 received by direct deposit. Upon ~~such~~ cancellation:

4652 1. The member's ~~participant's~~ transfer to the pension plan
4653 ~~defined benefit program~~ under paragraph (i) shall be nullified;

4654 2. The member ~~participant~~ shall be retroactively reinstated
4655 in the investment plan ~~Public Employee Optional Retirement~~
4656 ~~program~~ without hiatus;

4657 3. All funds transferred to the Florida Retirement System
4658 Trust Fund under paragraph (a) must ~~shall~~ be returned to the
4659 member ~~participant~~ accounts from which the ~~such~~ funds were
4660 drawn; and

4661 4. The member ~~participant~~ may elect to receive the benefit
4662 payable under ~~the provisions of~~ subsection (1) in lieu of
4663 disability benefits ~~as provided under this subsection.~~

4664 (k) *Recovery from disability.*—

4665 1. The division may require periodic reexaminations at the
4666 expense of the disability program account of the Florida
4667 Retirement System Trust Fund. Except as ~~otherwise~~ provided in
4668 subparagraph 2., ~~the requirements, procedures, and restrictions~~
4669 ~~relating to the conduct and review of such reexaminations,~~
4670 ~~discontinuation or termination of benefits, reentry into~~
4671 ~~employment, disability retirement after reentry into covered~~
4672 ~~employment, and all other matters relating to recovery from~~
4673 disability shall be ~~the same as~~ provided ~~are set forth~~ under s.

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4674 121.091(4)(h).

4675 2. Upon recovery from disability, the ~~any~~ recipient of
4676 disability retirement benefits under this subsection shall be
4677 transferred back to the investment plan ~~a compulsory member of~~
4678 ~~the Public Employee Optional Retirement Program of the Florida~~
4679 ~~Retirement System~~. The net difference between the recipient's
4680 original account balance transferred to the Florida Retirement
4681 System Trust Fund, including earnings, ~~under paragraph (a)~~ and
4682 total disability benefits paid to such recipient, if any, shall
4683 be determined as provided in sub-subparagraph a.

4684 a. An amount equal to the total benefits paid shall be
4685 subtracted from that portion of the transferred account balance
4686 consisting of vested accumulations as described under s.
4687 121.4501(6), if any, and an amount equal to the remainder of
4688 benefit amounts paid, if any, shall ~~then~~ be subtracted from any
4689 remaining ~~portion consisting of~~ nonvested accumulations ~~as~~
4690 ~~described under s. 121.4501(6)~~.

4691 b. Amounts subtracted under sub-subparagraph a. must ~~shall~~
4692 be retained within the disability account of the Florida
4693 Retirement System Trust Fund. Any remaining account balance
4694 shall be transferred to the third-party administrator for
4695 disposition as provided under sub-subparagraph c. or sub-
4696 subparagraph d., as appropriate.

4697 c. If the recipient returns to covered employment,
4698 transferred amounts must ~~shall~~ be deposited in individual
4699 accounts under the investment plan ~~Public Employee Optional~~
4700 ~~Retirement program~~, as directed by the member ~~participant~~.

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4701 Vested and nonvested amounts shall be separately accounted for
4702 as provided in s. 121.4501(6).

4703 d. If the recipient fails to return to covered employment
4704 upon recovery from disability:

4705 (I) Any remaining vested amount must ~~shall~~ be deposited in
4706 individual accounts under the investment plan ~~Public Employee~~
4707 ~~Optional Retirement program~~, as directed by the member
4708 ~~participant~~, and is ~~shall~~ be payable as provided in subsection
4709 (1).

4710 (II) Any remaining nonvested amount must ~~shall~~ be held in a
4711 suspense account and is ~~shall~~ be forfeitable after 5 years as
4712 provided in s. 121.4501(6).

4713 3. If present value was reassigned from the pension plan
4714 ~~defined benefit program~~ to the disability program ~~of the Florida~~
4715 ~~Retirement System~~ as provided under subparagraph (a)2., the full
4716 present value amount must ~~shall~~ be returned to the defined
4717 benefit account within the Florida Retirement System Trust Fund
4718 and the member's ~~affected individual's~~ associated retirement
4719 credit under the pension plan ~~defined benefit program~~ ~~shall~~
4720 be reinstated in full. Any benefit based upon such credit must
4721 ~~shall~~ be calculated as provided in s. 121.091(4)(h)1.

4722 (1) *Nonadmissible causes of disability.*—A member is
4723 ~~participant~~ ~~shall~~ not be entitled to ~~receive~~ a disability
4724 retirement benefit if the disability results from any injury or
4725 disease ~~sustained or inflicted~~ as described in s. 121.091(4)(i).

4726 (m) *Disability retirement of justice or judge by order of*
4727 *Supreme Court.*—

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4728 1.a. If a member participant is a justice of the Supreme
4729 Court, judge of a district court of appeal, circuit judge, or
4730 judge of a county court who has served for 6 years or more as an
4731 elected constitutional judicial officer, including service as a
4732 judicial officer in any court abolished pursuant to Art. V of
4733 the State Constitution, and who is retired for disability ~~by~~
4734 ~~order of the Supreme Court upon recommendation of the Judicial~~
4735 ~~Qualifications Commission pursuant to s. 12, the provisions of~~
4736 Art. V of the State Constitution, the member's participant's
4737 Option 1 monthly disability benefit amount as provided in s.
4738 121.091(6)(a)1. shall be two-thirds of his or her monthly
4739 compensation as of the member's participant's disability
4740 retirement date. The member ~~Such a participant~~ may alternatively
4741 elect to receive an actuarially adjusted disability retirement
4742 benefit under any other option as provided in s. 121.091(6)(a),
4743 or to receive the normal benefit payable under ~~the Public~~
4744 ~~Employee Optional Retirement Program as set forth in~~ subsection
4745 (1). This sub-subparagraph applies to any member retiring prior
4746 to July 1, 2011.

4747 b. Effective July 1, 2011, and applicable to any member
4748 retiring on or after July 1, 2011, if a member is a justice of
4749 the Supreme Court, judge of a district court of appeal, circuit
4750 judge, or judge of a county court who has served for 6 years or
4751 more as an elected constitutional judicial officer, including
4752 service as a judicial officer in any court abolished pursuant to
4753 Art. V of the State Constitution, and who is retired for
4754 disability pursuant to s. 12, Art. V of the State Constitution,

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4755 the member's Option 1 monthly disability benefit amount as
4756 provided in s. 121.091(6) (a)1. shall be one-third of his or her
4757 monthly compensation as of the member's disability retirement
4758 date. The member may alternatively elect to receive an
4759 actuarially adjusted disability retirement benefit under any
4760 other option as provided in s. 121.091(6) (a), or to receive the
4761 normal benefit payable under subsection (1).

4762 2. If any justice or judge who is a member participant of
4763 the investment plan ~~Public Employee Optional Retirement program~~
4764 ~~of the Florida Retirement System~~ is retired for disability ~~by~~
4765 ~~order of the Supreme Court upon recommendation of the Judicial~~
4766 ~~Qualifications Commission pursuant to s.12,~~ the provisions of
4767 Art. V of the State Constitution and elects to receive a monthly
4768 disability benefit under the provisions of this paragraph:

4769 a. Any present value amount that was transferred to his or
4770 her investment plan ~~program~~ account and all employee and
4771 employer contributions made to such account on his or her
4772 behalf, plus interest and earnings thereon, must ~~shall~~ be
4773 transferred to and deposited in the disability account of the
4774 Florida Retirement System Trust Fund; and

4775 b. The monthly disability benefits payable under this
4776 paragraph ~~for any affected justice or judge retired from the~~
4777 ~~Florida Retirement System pursuant to Art. V of the State~~
4778 ~~Constitution~~ shall be paid from the disability account of the
4779 Florida Retirement System Trust Fund.

4780 (n) *Death of retiree or beneficiary.*—Upon the death of a
4781 disabled retiree or beneficiary of the retiree ~~thereof~~ who is

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4782 receiving monthly disability benefits under this subsection, the
4783 monthly benefits shall be paid through the last day of the month
4784 of death and shall terminate, or be adjusted, if applicable, as
4785 of that date in accordance with the optional form of benefit
4786 selected at the time of retirement. The department ~~of Management~~
4787 ~~Services~~ may adopt rules necessary to administer this paragraph.

4788 (3) DEATH BENEFITS.—Under the investment plan ~~Public~~
4789 ~~Employee Optional Retirement~~ program:

4790 (a) Survivor benefits are ~~shall be~~ payable in accordance
4791 with the following terms and conditions:

4792 1. To the extent vested, benefits are ~~shall be~~ payable only
4793 to a member's ~~participant's~~ beneficiary or beneficiaries as
4794 designated by the member ~~participant~~ as provided in s.
4795 121.4501(20).

4796 2. Benefits must ~~shall~~ be paid by the third-party
4797 administrator or designated approved providers in accordance
4798 with the law, the contracts, and any applicable state board rule
4799 or policy.

4800 3. To receive benefits under this subsection, the member
4801 ~~participant~~ must be deceased.

4802 (b) In the event of a member's ~~participant's~~ death, all
4803 vested accumulations as described in s. 121.4501(6), less
4804 withholding taxes remitted to the Internal Revenue Service,
4805 shall be distributed, as provided in paragraph (c) or as
4806 described in s. 121.4501(20), as if the member ~~participant~~
4807 retired on the date of death. No other death benefits are ~~shall~~
4808 ~~be~~ available for survivors of members ~~participants~~ under the

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4809 ~~Public Employee Optional Retirement Program~~, except for ~~such~~
4810 benefits, or coverage for ~~such~~ benefits, as are otherwise
4811 provided by law or ~~are~~ separately provided ~~afforded~~ by the
4812 employer, at the employer's discretion.

4813 (c) Upon receipt by the third-party administrator of a
4814 properly executed application for distribution of benefits, the
4815 total accumulated benefit is ~~shall be~~ payable by the third-party
4816 administrator to the member's ~~participant's~~ surviving
4817 beneficiary or beneficiaries, as:

4818 1. A lump-sum distribution payable to the beneficiary or
4819 beneficiaries, or to the deceased member's ~~participant's~~ estate;

4820 2. An eligible rollover distribution, if permitted, on
4821 behalf of the surviving spouse of a deceased member ~~participant~~,
4822 whereby all accrued benefits, plus interest and investment
4823 earnings, are paid from the deceased member's ~~participant's~~
4824 account directly to the custodian of an eligible retirement
4825 plan, as described in s. 402(c)(8)(B) of the Internal Revenue
4826 Code, on behalf of the surviving spouse; or

4827 3. A partial lump-sum payment whereby a portion of the
4828 accrued benefit is paid to the deceased member's ~~participant's~~
4829 surviving spouse or other designated beneficiaries, less
4830 withholding taxes remitted to the Internal Revenue Service, and
4831 the remaining amount is transferred directly to the custodian of
4832 an eligible retirement plan, if permitted, as described in s.
4833 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
4834 surviving spouse. The proportions must be specified by the
4835 member ~~participant~~ or the surviving beneficiary.

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4837 This paragraph does not abrogate other applicable provisions of
4838 state or federal law providing for payment of death benefits.

4839 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to
4840 any person under the investment plan ~~Public Employee Optional~~
4841 ~~Retirement program~~, and any contributions accumulated under the
4842 investment plan ~~such program~~, are not subject to assignment,
4843 execution, attachment, or any legal process, except for
4844 qualified domestic relations orders by a court of competent
4845 jurisdiction, income deduction orders as provided in s. 61.1301,
4846 and federal income tax levies.

4847 Section 19. Section 121.5911, Florida Statutes, is amended
4848 to read:

4849 121.5911 Disability retirement program; qualified status;
4850 rulemaking authority.—It is the intent of the Legislature that
4851 the disability retirement program for members ~~participant~~ of the
4852 investment plan ~~Public Employee Optional Retirement Program~~ as
4853 ~~created in this act must~~ meet all applicable requirements of
4854 federal law for a qualified plan. The department ~~of Management~~
4855 ~~Services~~ shall seek a private letter ruling from the Internal
4856 Revenue Service on the disability retirement program ~~for~~
4857 ~~participants of the Public Employee Optional Retirement Program~~.
4858 Consistent with the private letter ruling, the department ~~of~~
4859 ~~Management Services~~ shall adopt ~~any necessary~~ necessary
4860 ~~required~~ to maintain the qualified status of the disability
4861 retirement program and the Florida Retirement System pension
4862 ~~defined benefit~~ plan.

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4863 Section 20. Section 121.70, Florida Statutes, is amended to
4864 read:

4865 121.70 Legislative purpose and intent.—

4866 (1) This part provides for a uniform system for funding
4867 benefits provided under the Florida Retirement System defined
4868 benefit program established under part I of this chapter
4869 (referred to in this part as the pension plan ~~defined benefit~~
4870 ~~program~~) and under the investment plan ~~Public Employee Optional~~
4871 ~~Retirement program~~ established under part II of this chapter
4872 (referred to in this part as the investment plan ~~optional~~
4873 ~~retirement program~~). The Legislature recognizes and declares
4874 that the Florida Retirement System is a single retirement
4875 system, consisting of two retirement plans and other
4876 nonintegrated programs. Employees and employers participating in
4877 the Florida Retirement System collectively shall be responsible
4878 for making contributions to support the benefits provided
4879 ~~afforded~~ under both plans. The employees and ~~As provided in this~~
4880 ~~part,~~ employers ~~participating in the Florida Retirement System~~
4881 shall make contributions based upon uniform contribution rates
4882 determined as a percentage of the employee's gross monthly
4883 compensation ~~total payroll~~ for the employee's ~~each~~ class or
4884 subclass of Florida Retirement System membership, irrespective
4885 of which retirement plan the individual employee is enrolled
4886 ~~employees may elect~~. This shall be known as a uniform or blended
4887 contribution rate system.

4888 (2) In establishing a uniform contribution rate system, it
4889 is the intent of the Legislature to:

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4890 (a) Provide greater stability and certainty in financial
4891 planning and budgeting for Florida Retirement System employers
4892 by eliminating the fiscal instability that would be caused by
4893 dual rates coupled with employee-selected plan participation;

4894 (b) Provide greater fiscal equity and uniformity for system
4895 employers by effectively distributing the financial burden and
4896 benefit of short-term system deficits and surpluses,
4897 respectively, in proportion to total system payroll; and

4898 (c) Allow employees to make their retirement plan selection
4899 decisions free of circumstances that may cause employers to
4900 favor one plan choice over another.

4901 Section 21. Subsections (1) and (2) of section 121.71,
4902 Florida Statutes, are amended, present subsections (3) and (4)
4903 of that section are renumbered as subsections (4) and (7),
4904 respectively, and new subsections (3), (5), and (6) are added to
4905 that section, to read:

4906 121.71 Uniform rates; process; calculations; levy.—

4907 (1) In conducting the system actuarial study required under
4908 s. 121.031, the actuary shall follow all requirements specified
4909 ~~thereunder~~ to determine, by Florida Retirement System employee
4910 membership class, the dollar contribution amounts necessary for
4911 the next forthcoming fiscal year for the pension plan defined
4912 ~~benefit program~~. In addition, the actuary shall determine, by
4913 Florida Retirement System membership class, based on an estimate
4914 for the forthcoming fiscal year of the gross compensation of
4915 employees participating in the investment plan optional
4916 ~~retirement program~~, the dollar contribution amounts necessary to

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4917 | make the allocations required under ss. 121.72 and 121.73. For
4918 | each employee membership class and subclass, the actuarial study
4919 | must ~~shall~~ establish a uniform rate necessary to fund the
4920 | benefit obligations under both Florida Retirement System
4921 | retirement plans by dividing the sum of total dollars required
4922 | by the estimated gross compensation of members in both plans.

4923 | (2) Based on the uniform rates set forth in subsections
4924 | ~~subsection~~ (3), (4), and (5), employees and employers shall make
4925 | monthly contributions to the Division of Retirement as required
4926 | in s. 121.061(1), which shall initially deposit the funds into
4927 | the Florida Retirement System Contributions Clearing Trust Fund.
4928 | A change in a contribution rate is effective the first day of
4929 | the month for which a full month's employee and employer
4930 | contribution may be made on or after the beginning date of the
4931 | change. Beginning July 1, 2011, each employee shall contribute
4932 | the contributions required in subsection (3). The employer shall
4933 | deduct the contribution from the employee's monthly salary, and
4934 | the contribution shall be submitted to the Division of
4935 | Retirement. These contributions shall be reported as employer-
4936 | paid employee contributions, and shall be credited to the
4937 | account of the employee. The contributions shall be deducted
4938 | from the employee's salary before the computation of applicable
4939 | federal taxes and shall be treated as employer contributions
4940 | under 26 U.S.C. 414(b)(2). The contributions, although
4941 | designated as employee contributions, are being paid by the
4942 | employers in lieu of contributions by the employee. The employee
4943 | shall not have the option of choosing to receive the contributed

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4944 amounts directly instead of having them paid by the employer to
 4945 the plan. Such contributions are mandatory and each employee
 4946 shall be considered to consent to payroll deductions. Payment of
 4947 an employee's salary or wages, less the contribution, is a full
 4948 and complete discharge and satisfaction of all claims and
 4949 demands for the service rendered by employees during the period
 4950 covered by the payment, except their claims to the benefits to
 4951 which they may be entitled under the provisions of this chapter.

4952 (3) Required employee retirement contribution rates for
 4953 each membership class of the Florida Retirement System for both
 4954 retirement plans are as follows:

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

4960
 4961 (4)~~(3)~~ Required employer retirement contribution rates for
 4962 each membership class and subclass of the Florida Retirement

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4963	System for both retirement plans are as follows:	
	Percentage of Gross Compensation, Effective July 1,	Percentage of Gross Compensation, Effective July 1,
	<u>2011</u> 2009	2010
4964	Membership Class	
	<u>5.23%</u> 8.69%	9.63%
4965	Regular Class	
4966	Special Risk Class	
	<u>11.63%</u> 19.76%	22.11%
	Special Risk Administrative Support Class	
	<u>11.39%</u>	12.10%
4967	Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	
	<u>5.95%</u> 13.32%	15.20%
4968	Elected Officers' Class - Justices, Judges	
	<u>7.26%</u> 18.40%	20.65%
4969	Elected Officers' Class - County Elected Officers	
	<u>7.09%</u> 15.37%	17.50%

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4970	Senior Management Class	<u>5.63%</u> 11.96% <u>13.43%</u>
4971	DROP	<u>11.14%</u> 9.80% <u>11.14%</u>
4972		
4973	<u>(5) In order to address unfunded actuarial liabilities of</u>	
4974	<u>the system, the required employer retirement contribution rates</u>	
4975	<u>for each membership class and subclass of the Florida Retirement</u>	
4976	<u>System for both retirement plans are as follows:</u>	
	<u>Percentage of</u>	<u>Percentage of</u>
	<u>Gross</u>	<u>Gross</u>
	<u>Compensation,</u>	<u>Compensation,</u>
	<u>Effective July 1,</u>	<u>Effective July 1,</u>
	<u>2011</u>	<u>2013</u>
4977	<u>Membership Class</u>	
	<u>0.00%</u>	<u>1.94%</u>
4978	<u>Regular Class</u>	
	<u>0.00%</u>	<u>5.80%</u>
	<u>Special Risk Class</u>	
4979	<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>19.39%</u>
4980		

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5002 | ~~retirement program participant~~ accounts; percentage amounts.--

5003 | (1) The allocations established in subsection (4) shall
5004 | fund retirement benefits under the investment plan ~~optional~~
5005 | ~~retirement program~~ and shall be transferred monthly by the
5006 | Division of Retirement from the Florida Retirement System
5007 | Contributions Clearing Trust Fund to the third-party
5008 | administrator for deposit in each participating employee's
5009 | individual account based on the membership class of the
5010 | participant.

5011 | (2) The allocations are stated as a percentage of each
5012 | investment plan member's ~~optional retirement program~~
5013 | ~~participant's~~ gross compensation for the calendar month. A
5014 | change in a contribution percentage is effective the first day
5015 | of the month for which retirement contributions ~~a full month's~~
5016 | ~~employer contribution~~ may be made on or after the beginning date
5017 | of the change. Contribution percentages may be modified by
5018 | general law.

5019 | (3) Employer and employee ~~participant~~ contributions to
5020 | member ~~participant~~ accounts shall be accounted for separately.
5021 | ~~Participant contributions may be made only if expressly~~
5022 | ~~authorized by law.~~ Interest and investment earnings on
5023 | contributions shall accrue on a tax-deferred basis until
5024 | proceeds are distributed.

5025 | (4) (a) Effective July 1, 2002, through June 30, 2011,
5026 | allocations from the Florida Retirement System Contributions
5027 | Clearing Trust Fund to investment plan member ~~optional~~
5028 | ~~retirement program participant~~ accounts shall be as follows:

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5029	Membership Class	Percentage of Gross Compensation
5030	Regular Class	9.00%
5031	Special Risk Class	20.00%
5032	Special Risk Administrative Support Class	11.35%
5033	Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.40%
5034	Elected Officers' Class - Justices, Judges	18.90%
5035	Elected Officers' Class - County Elected Officers	16.20%
5036	Senior Management Service Class	10.95%
5037	<u>(b) Effective July 1, 2011, allocations from the Florida</u>	
5038	<u>Retirement System Contributions Clearing Trust Fund to</u>	
5039	<u>investment plan member accounts, which includes employee</u>	
5040	<u>contributions as required in s. 121.71(3), shall be 11.25</u>	
5041	<u>percent of gross compensation for a member in the Special Class</u>	
5042	<u>and 9 percent of gross compensation for members in all other</u>	

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5043 classes.

5044 Section 23. Section 121.73, Florida Statutes, is amended to
5045 read:

5046 121.73 Allocations for member ~~optional retirement program~~
5047 ~~participant~~ disability coverage; percentage amounts.—

5048 (1) The allocations established in subsection (3) shall be
5049 used to provide disability coverage for members ~~participants~~ in
5050 the investment plan ~~optional retirement program~~ and shall be
5051 transferred monthly by the Division of Retirement from the
5052 Florida Retirement System Contributions Clearing Trust Fund to
5053 the disability account of the Florida Retirement System Trust
5054 Fund.

5055 (2) The allocations are stated as a percentage of each
5056 investment plan member's ~~optional retirement program~~
5057 ~~participant's~~ gross compensation for the calendar month. A
5058 change in a contribution percentage is effective the first day
5059 of the month for which retirement contributions ~~a full month's~~
5060 ~~employer contribution~~ may be made on or after the beginning date
5061 of the change. Contribution percentages may be modified by
5062 general law.

5063 (3) (a)Effective July 1, 2002, through June 30, 2011,
5064 allocations from the Florida Retirement System ~~FRS~~ Contribution
5065 Clearing Fund to provide disability coverage for members
5066 ~~participants~~ in the investment plan ~~optional retirement program~~,
5067 and to offset the costs of administering said coverage, shall be
5068 as follows:

Membership Class	Percentage of Gross Compensation
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5069	Regular Class	0.25%
5070	Special Risk Class	1.33%
5071	Special Risk Administrative Support Class	0.45%
5072	Elected Officers' Class - Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
5073	Elected Officers' Class - Justices, Judges	0.73%
5074	Elected Officers' Class - County Elected Officers	0.41%
5075	Senior Management Service Class	0.26%
5076		
5077	<u>(b) Effective July 1, 2011, allocations from the Florida</u>	
5078	<u>Retirement System Contribution Clearing Fund to provide</u>	
5079	<u>disability coverage for participants in the investment plan and</u>	
5080	<u>to offset the costs of administering said coverage shall be the</u>	
5081	<u>actuarially-indicated amount necessary to fund the statutorily</u>	
5082	<u>authorized benefit for the plan year as determined by the</u>	
5083	<u>Department of Management Services' actuary.</u>	

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5084 Section 24. Section 121.74, Florida Statutes, is amended to
5085 read:

5086 121.74 Administrative and educational expenses.—In addition
5087 to contributions required under ss. s. 121.71 and 121.73,
5088 effective July 1, 2010, through June 30, 2013 ~~2014~~, employers
5089 participating in the Florida Retirement System shall contribute
5090 an amount equal to 0.03 percent of the payroll reported for each
5091 class or subclass of Florida Retirement System membership.
5092 Effective July 1, 2013 ~~2014~~, the contribution rate shall be 0.04
5093 percent of the payroll reported for each class or subclass of
5094 membership. The amount contributed shall be transferred by the
5095 Division of Retirement from the Florida Retirement System
5096 Contributions Clearing Trust Fund to the State Board of
5097 Administration's Administrative Trust Fund to offset the costs
5098 of administering the investment plan ~~optional retirement program~~
5099 and the costs of providing educational services to members of
5100 the Florida Retirement System ~~participants in the defined~~
5101 ~~benefit program and the optional retirement program~~. Approval of
5102 the trustees is required before the expenditure of these funds.
5103 Payments for third-party administrative or educational expenses
5104 shall be made only pursuant to the terms of the approved
5105 contracts for such services.

5106 Section 25. Section 121.75, Florida Statutes, is amended to
5107 read:

5108 121.75 Allocation for pension plan ~~defined benefit program~~.—
5109 After making the transfers required pursuant to ss. 121.71,
5110 121.72, 121.73, and 121.74, the monthly balance of funds in the

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5111 Florida Retirement System Contributions Clearing Trust Fund
5112 shall be transferred to the Florida Retirement System Trust Fund
5113 to pay the costs of providing pension plan ~~defined benefit~~
5114 ~~program~~ benefits and plan administrative costs under the pension
5115 plan ~~defined benefit program~~.

5116 Section 26. Section 121.77, Florida Statutes, is amended to
5117 read:

5118 121.77 Deductions from member ~~participant~~ accounts.— The
5119 State Board of Administration may authorize the third-party
5120 administrator to deduct reasonable fees and apply appropriate
5121 charges to investment plan member ~~optional retirement program~~
5122 ~~participant~~ accounts. In no event may ~~shall~~ administrative and
5123 educational expenses exceed the portion of employer
5124 contributions earmarked for such expenses under this part,
5125 except for reasonable administrative charges assessed against
5126 member ~~participant~~ accounts of persons for whom no employer
5127 contributions are made during the calendar quarter. Investment
5128 management fees shall be deducted from member ~~participant~~
5129 accounts, pursuant to the terms of the contract between the
5130 provider and the board.

5131 Section 27. Subsections (1) and (3) of section 121.78,
5132 Florida Statutes, are amended to read:

5133 121.78 Payment and distribution of contributions.—

5134 (1) Contributions made pursuant to this part shall be paid
5135 by the employer, including the employee contribution, to the
5136 Division of Retirement by electronic funds transfer no later
5137 than the 5th working day of the month immediately following the

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5138 month during which the payroll period ended. Accompanying
5139 payroll data must be transmitted to the division concurrent with
5140 the contributions.

5141 (3) (a) Employee and employer contributions and accompanying
5142 payroll data received after the 5th working day of the month are
5143 considered late. The employer shall be assessed by the Division
5144 of Retirement a penalty of 1 percent of the contributions due
5145 for each calendar month or part thereof that the contributions
5146 or accompanying payroll data are late. Proceeds from the 1-
5147 percent assessment against contributions made on behalf of
5148 member participants of the pension plan must defined benefit
5149 program shall be deposited in the Florida Retirement System
5150 Trust Fund, and proceeds from the 1-percent assessment against
5151 contributions made on behalf of member participants of the
5152 investment plan optional retirement program shall be transferred
5153 to the third-party administrator for deposit into member
5154 participant accounts, as provided in paragraph (c) (b).

5155 (b) Retirement contributions paid for a prior period shall
5156 be charged a delinquent fee of 1 percent for each calendar month
5157 or part thereof that the contributions should have been paid.
5158 This includes prior period contributions due to incorrect wages
5159 and contributions from an earlier report or wages and
5160 contributions that should have been reported, but were not. This
5161 delinquent assessment may not be waived.

5162 (c) (b) If employee contributions or contributions made by
5163 an employer on behalf of member participants of the investment
5164 plan optional retirement program or accompanying payroll data

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5165 are not received within the calendar month they are due,
5166 including, but not limited to, contribution adjustments as a
5167 result of employer errors or corrections, and if that
5168 delinquency results in market losses to members ~~participants~~,
5169 the employer shall reimburse each member's ~~participant's~~ account
5170 for market losses resulting from the late contributions. If a
5171 member ~~participant~~ has terminated employment and taken a
5172 distribution, the member ~~participant~~ is responsible for
5173 returning any excess contributions erroneously provided by
5174 employers, adjusted for any investment gain or loss incurred
5175 during the period such excess contributions were in the member's
5176 ~~participant's~~ account. The state board or its designated agent
5177 shall communicate to terminated members ~~participants~~ any
5178 obligation to repay such excess contribution amounts. However,
5179 the state board, its designated agents, the Investment Plan
5180 ~~Public Employee Optional Retirement Program~~ Trust Fund, the
5181 department, or the Florida Retirement System Trust Fund may not
5182 incur any loss or gain as a result of an employer's correction
5183 of such excess contributions. The third-party administrator,
5184 hired by the state board pursuant to s. 121.4501(8), shall
5185 calculate the market losses for each affected member
5186 ~~participant~~. If contributions made on behalf of members
5187 ~~participants~~ of the investment plan ~~optional retirement program~~
5188 or accompanying payroll data are not received within the
5189 calendar month due, the employer shall also pay the cost of the
5190 third-party administrator's calculation and reconciliation
5191 adjustments resulting from the late contributions. The third-

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5192 party administrator shall notify the employer of the results of
 5193 the calculations and the total amount due from the employer for
 5194 such losses and the costs of calculation and reconciliation. The
 5195 employer shall remit to the Division of Retirement the amount
 5196 due within 30 working days after the date of the penalty notice
 5197 sent by the division. The division shall transfer that amount to
 5198 the third-party administrator, which shall deposit proceeds from
 5199 the 1-percent assessment and from individual market losses into
 5200 member participant accounts, as appropriate. The state board may
 5201 adopt rules to administer the provisions regarding late
 5202 contributions, late submission of payroll data, the process for
 5203 reimbursing member participant accounts for resultant market
 5204 losses, and the penalties charged to the employers.

5205 (d) If employee contributions reported by an employer on
 5206 behalf of members are reduced as a result of employer errors or
 5207 corrections, and the member has terminated employment and taken
 5208 a refund or distribution, the employer shall be billed and is
 5209 responsible for recovering from the member any excess
 5210 contributions erroneously provided by the employer.

5211 (e)-(c) Delinquency fees specified in paragraph (a) may be
 5212 waived by the Division of Retirement, with regard to pension
 5213 plan ~~defined benefit program~~ contributions, and by the state
 5214 board, with regard to investment plan ~~optional retirement~~
 5215 ~~program~~ contributions, only if, in the opinion of the division
 5216 or the board, as appropriate, exceptional circumstances beyond
 5217 the employer's control prevented remittance by the prescribed
 5218 due date notwithstanding the employer's good faith efforts to

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5219 effect delivery. Such a waiver of delinquency may be granted an
5220 employer only once each plan year.

5221 (f) If the employer submits excess employer or employee
5222 contributions, the employer shall receive a credit to be applied
5223 against future contributions owed. The employer is responsible
5224 for reimbursing the member for any excess contributions
5225 submitted, provided that any return of such an erroneous excess
5226 pretax contribution by the program shall be made within 1 year
5227 after making erroneous contributions or such other period as may
5228 be allowed by applicable Internal Revenue guidance.

5229 (g) ~~(d)~~ If contributions made by an employer on behalf of
5230 members ~~participants~~ in the investment plan ~~optional retirement~~
5231 ~~program~~ are delayed in posting to member ~~participant~~ accounts
5232 due to acts of God beyond the control of the Division of
5233 Retirement, the state board, or the third-party administrator,
5234 as applicable, market losses resulting from the late
5235 contributions are not payable to the members ~~participants~~.

5236 Section 28. Paragraph (a) of subsection (4) of section
5237 1012.875, Florida Statutes, is amended to read:

5238 1012.875 State Community College System Optional Retirement
5239 Program.—Each community college may implement an optional
5240 retirement program, if such program is established therefor
5241 pursuant to s. 1001.64(20), under which annuity or other
5242 contracts providing retirement and death benefits may be
5243 purchased by, and on behalf of, eligible employees who
5244 participate in the program, in accordance with s. 403(b) of the
5245 Internal Revenue Code. Except as otherwise provided herein, this

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5246 retirement program, which shall be known as the State Community
5247 College System Optional Retirement Program, may be implemented
5248 and administered only by an individual community college or by a
5249 consortium of community colleges.

5250 (4) (a) Through June 30, 2011, each college must contribute
5251 on behalf of each program participant an amount equal to 10.43
5252 percent of the participant's gross monthly compensation. The
5253 college shall deduct an amount approved by the district board of
5254 trustees of the college to provide for the administration of the
5255 optional retirement program. Payment of this contribution must
5256 be made either directly by the college or through the program
5257 administrator to the designated company contracting for payment
5258 of benefits to the program participant. The State Community
5259 College System Optional Retirement Program is closed to new
5260 participants effective July 1, 2011. All employees participating
5261 in the program on June 30, 2011, shall be enrolled in the
5262 Florida Retirement System Investment Plan as of July 1, 2011.
5263 Participants may continue optional program accounts that were in
5264 existence on June 30, 2011.

5265 Section 29. Paragraph (g) of subsection (2) of section
5266 110.123, Florida Statutes, is amended to read:

5267 110.123 State group insurance program.—

5268 (2) DEFINITIONS.—As used in this section, the term:

5269 (g) "Retired state officer or employee" or "retiree" means
5270 any state or state university officer or employee who retires
5271 under a state retirement system or a state optional annuity or
5272 retirement program or is placed on disability retirement, and

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5273 who was insured under the state group insurance program at the
5274 time of retirement, and who begins receiving retirement benefits
5275 immediately after retirement from state or state university
5276 office or employment. In addition ~~to these requirements,~~ the
5277 term includes any state officer or state employee who retires
5278 under the Florida Retirement System Investment Plan ~~Public~~
5279 ~~Employee Optional Retirement program~~ established under part II
5280 of chapter 121 ~~shall be considered a "retired state officer or~~
5281 ~~employee" or "retiree" as used in this section if he or she:~~
5282 1. Meets the age and service requirements to qualify for
5283 normal retirement as set forth in s. 121.021(29); or
5284 2. Has attained the age specified by s. 72(t)(2)(A)(i) of
5285 the Internal Revenue Code and has 6 years of creditable service.
5286 Section 30. Section 112.0801, Florida Statutes, is amended
5287 to read:
5288 112.0801 Group insurance; participation by retired
5289 employees.—
5290 ~~(1)~~ Any state agency, county, municipality, special
5291 district, community college, or district school board that ~~which~~
5292 provides life, health, accident, hospitalization, or annuity
5293 insurance, or all of any kinds of such insurance, for its
5294 officers and employees and their dependents upon a group
5295 insurance plan or self-insurance plan shall allow all former
5296 personnel who ~~have~~ retired before ~~prior to~~ October 1, 1987, as
5297 well as those who retire on or after such date, and their
5298 eligible dependents, the option of continuing to participate in
5299 the ~~such~~ group insurance plan or self-insurance plan. Retirees

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5300 and their eligible dependents shall be offered the same health
 5301 and hospitalization insurance coverage as is offered to active
 5302 employees at a premium cost of no more than the premium cost
 5303 applicable to active employees. For ~~the~~ retired employees and
 5304 their eligible dependents, the cost of ~~any such~~ continued
 5305 participation ~~in any type of plan or any of the cost thereof~~ may
 5306 be paid by the employer or by the retired employees. To
 5307 determine health and hospitalization plan costs, the employer
 5308 shall commingle the claims experience of the retiree group with
 5309 the claims experience of the active employees; and, for other
 5310 types of coverage, the employer may commingle the claims
 5311 experience of the retiree group with the claims experience of
 5312 active employees. Retirees covered under Medicare may be
 5313 experience-rated separately from the retirees not covered by
 5314 Medicare and from active employees if, ~~provided that~~ the total
 5315 premium does not exceed that of the active group and coverage is
 5316 basically the same as for the active group.

5317 (2) For purposes of this section, "retiree" has the same
 5318 meaning as in s. 110.123(2). ~~means any officer or employee who~~
 5319 ~~retires under a state retirement system or a state optional~~
 5320 ~~annuity or retirement program or is placed on disability~~
 5321 ~~retirement and who begins receiving retirement benefits~~
 5322 ~~immediately after retirement from employment. In addition to~~
 5323 ~~these requirements, any officer or employee who retires under~~
 5324 ~~the Public Employee Optional Retirement Program established~~
 5325 ~~under part II of chapter 121 shall be considered a "retired~~
 5326 ~~officer or employee" or "retiree" as used in this section if he~~

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5327 ~~or she:~~

5328 ~~(a) Meets the age and service requirements to qualify for~~
5329 ~~normal retirement as set forth in s. 121.021(29); or~~

5330 ~~(b) Has attained the age specified by s. 72(t)(2)(A)(i) of~~
5331 ~~the Internal Revenue Code and has 6 years of creditable service.~~

5332 Section 31. Paragraphs (b) and (e) of subsection (2) and
5333 paragraph (e) of subsection (3) are amended, and paragraphs (f)
5334 and (g) are added to subsection (3) of section 112.363, Florida
5335 Statutes, are amended to read:

5336 112.363 Retiree health insurance subsidy.-

5337 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.-

5338 (b) For purposes of this section, a person is deemed
5339 retired from a state-administered retirement system when he or
5340 she terminates employment with all employers participating in
5341 the Florida Retirement System as described in s. 121.021(39)
5342 and:

5343 1. For a participant of the investment plan ~~Public Employee~~
5344 ~~Optional Retirement program~~ established under part II of chapter
5345 121, the participant meets the age or service requirements to
5346 qualify for normal retirement as set forth in s. 121.021(29) and
5347 meets the definition of retiree in s. 121.4501(2)..

5348 2. For a member of the Florida Retirement System Pension
5349 Plan ~~defined benefit program~~, or any employee who maintains
5350 creditable service under ~~both~~ the pension plan ~~defined benefit~~
5351 ~~program~~ and the investment plan ~~Public Employee Optional~~
5352 ~~Retirement program~~, the member begins drawing retirement
5353 benefits from the pension plan ~~defined benefit program~~ of the

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5354 ~~Florida Retirement System.~~

5355 (e) Participants in the Senior Management Service Optional
5356 Annuity Program as provided in s. 121.055(6) and the State
5357 University System Optional Retirement Program as provided in s.
5358 121.35 shall not receive the retiree health insurance subsidy
5359 provided in this section. Prior to July 1, 2011, the employer of
5360 such participant shall pay the contributions required in
5361 subsection (8) to the annuity program provided in s.
5362 121.055(6)(d) or s. 121.35(4)(a), as applicable. Effective July
5363 1, 2011, no employer contributions required in subsection (8)
5364 shall be paid to the optional retirement programs provided in
5365 ss. 121.35 and 1012.875 or the optional annuity program provided
5366 in s. 121.055(6).

5367 (3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

5368 (e)1. Beginning July 1, 2001, each eligible retiree of the
5369 defined benefit program of the Florida Retirement System, or, if
5370 the retiree is deceased, his or her beneficiary who is receiving
5371 a monthly benefit from such retiree's account and who is a
5372 spouse, or a person who meets the definition of joint annuitant
5373 in s. 121.021~~(28)~~, shall receive a monthly retiree health
5374 insurance subsidy payment equal to the number of years of
5375 creditable service, as defined in s. 121.021(17), completed at
5376 the time of retirement multiplied by \$5; however, no eligible
5377 retiree or beneficiary may receive a subsidy payment of more
5378 than \$150 or less than \$30. If there are multiple beneficiaries,
5379 the total payment may ~~must~~ not be greater than the payment to
5380 which the retiree was entitled. The health insurance subsidy

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5381 amount payable to any person receiving the retiree health
5382 insurance subsidy payment on July 1, 2001, may ~~shall~~ not be
5383 reduced solely by operation of this subparagraph.

5384 2. Beginning July 1, 2002, each eligible participant of the
5385 investment plan ~~Public Employee Optional Retirement program~~ of
5386 the Florida Retirement System who has met the requirements of
5387 this section, or, if the participant is deceased, his or her
5388 spouse who is the participant's designated beneficiary, shall
5389 receive a monthly retiree health insurance subsidy payment equal
5390 to the number of years of creditable service, as provided in
5391 this subparagraph, completed at the time of retirement,
5392 multiplied by \$5; however, no eligible retiree or beneficiary
5393 may receive a subsidy payment of more than \$150 or less than
5394 \$30. For purposes of determining a participant's creditable
5395 service used to calculate the health insurance subsidy, a
5396 participant's years of service credit or fraction thereof shall
5397 be based on the participant's work year as defined in s.
5398 121.021(54). Credit must ~~shall~~ be awarded for a full work year
5399 whenever health insurance subsidy contributions have been made
5400 ~~as required by law~~ for each month in the participant's work
5401 year. In addition, all years of creditable service retained
5402 under the Florida Retirement System defined benefit program must
5403 ~~shall~~ be included as creditable service for purposes of this
5404 section. Notwithstanding any other provision in this section ~~to~~
5405 ~~the contrary~~, the spouse at the time of death is ~~shall be~~ the
5406 participant's beneficiary unless such participant has designated
5407 a different beneficiary subsequent to the participant's most

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5408 recent marriage.

5409 (f)1. Beginning July 1, 2011, each eligible retiree of the
5410 pension plan of the Florida Retirement System, or, if the
5411 retiree is deceased, his or her beneficiary who is receiving a
5412 monthly benefit from such retiree's account and who is a spouse,
5413 or a person who meets the definition of joint annuitant in s.
5414 121.021(28), shall receive a monthly retiree health insurance
5415 subsidy payment equal to the number of years of creditable
5416 service, as defined in s. 121.021(17), completed at the time of
5417 retirement but prior to July 1, 2011, multiplied by \$5; however,
5418 no eligible retiree or beneficiary may receive a subsidy payment
5419 of more than \$150 or less than \$5. If there are multiple
5420 beneficiaries, the total payment must not be greater than the
5421 payment to which the retiree was entitled. The health insurance
5422 subsidy amount payable to any person receiving the retiree
5423 health insurance subsidy payment on July 1, 2011, shall not be
5424 reduced solely by operation of this subparagraph.

5425 2. Beginning July 1, 2011, each eligible participant of the
5426 investment plan of the Florida Retirement System who has met the
5427 requirements of this section, or, if the participant is
5428 deceased, his or her spouse who is the participant's designated
5429 beneficiary, shall receive a monthly retiree health insurance
5430 subsidy payment equal to the number of years of creditable
5431 service, as provided in this subparagraph, completed at the time
5432 of retirement, multiplied by \$5; however, no eligible retiree or
5433 beneficiary may receive a subsidy payment of more than \$150 or
5434 less than \$5. For purposes of determining a participant's

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5435 creditable service used to calculate the health insurance
5436 subsidy, a participant's years of service credit or fraction
5437 thereof shall be based on the participant's work year as defined
5438 in s. 121.021(54). Credit shall be awarded for a full work year
5439 whenever health insurance subsidy contributions have been made
5440 as required by law for each month in the participant's work
5441 year. In addition, all years of creditable service retained
5442 under the Florida Retirement System pension plan shall be
5443 included as creditable service for purposes of this section.
5444 Notwithstanding any other provision in this section to the
5445 contrary, the spouse at the time of death shall be the
5446 participant's beneficiary unless such participant has designated
5447 a different beneficiary subsequent to the participant's most
5448 recent marriage.

5449 3. In no case will a retiree or beneficiary be eligible to
5450 receive the subsidy unless the retiree earned six years of
5451 creditable service in the Florida Retirement System. Service in
5452 the optional retirement programs administered under ss. 121.35
5453 and 1012.875 and the optional annuity program administered under
5454 s. 121.055(6) may not be used to meet this service requirement.

5455 (g) No service credit earned on or after July 1, 2011 may
5456 be used toward the calculation of the amount of the retiree
5457 health insurance subsidy.

5458 Section 32. Subsection (1) of section 112.65, Florida
5459 Statutes, is amended to read:

5460 112.65 Limitation of benefits.—

5461 (1) ESTABLISHMENT OF PROGRAM.—The normal retirement benefit

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5462 | or pension payable to a retiree who becomes a member of any
5463 | retirement system or plan and who has not previously
5464 | participated in such plan, on or after January 1, 1980, may
5465 | ~~shall~~ not exceed 100 percent of his or her average final
5466 | compensation. However, ~~nothing contained in this section~~ does
5467 | not shall apply to supplemental retirement benefits or to
5468 | pension increases attributable to cost-of-living increases or
5469 | adjustments. For the purposes of this section, benefits accruing
5470 | in individual member ~~participant~~ accounts established under the
5471 | investment plan ~~Public Employee Optional Retirement program~~
5472 | established in part II of chapter 121 are considered
5473 | supplemental benefits. As used in this section, the term
5474 | "average final compensation" means the average of the member's
5475 | earnings over a period of time which the governmental entity has
5476 | established by statute, charter, or ordinance.

5477 | Section 33. Section 121.161, Florida Statutes, is reenacted
5478 | to read:

5479 | 121.161 References to other laws include amendments.—
5480 | References in this chapter to state or federal laws or
5481 | agreements are intended to include such laws as they now exist
5482 | or may hereafter be amended.

5483 | Section 34. Paragraph (d) of subsection (6) of section
5484 | 212.20, Florida Statutes, is amended to read:

5485 | 212.20 Funds collected, disposition; additional powers of
5486 | department; operational expense; refund of taxes adjudicated
5487 | unconstitutionally collected.

5488 | (6) Distribution of all proceeds under this chapter and s.

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5489	202.18(1)(b) and (2)(b) shall be as follows:	
5490	(d) The proceeds of all other taxes and fees imposed	
5491	pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)	
5492	and (2)(b) shall be distributed as follows:	
5493	1. In any fiscal year, the greater of \$500 million, minus	
5494	an amount equal to 4.6 percent of the proceeds of the taxes	
5495	collected pursuant to chapter 201, or 5.2 percent of all other	
5496	taxes and fees imposed pursuant to this chapter or remitted	
5497	pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in	
5498	monthly installments into the General Revenue Fund.	
5499	2. After the distribution under subparagraph 1., 8.814	
5500	percent of the amount remitted by a sales tax dealer located	
5501	within a participating county pursuant to s. 218.61 shall be	
5502	transferred into the Local Government Half-cent Sales Tax	
5503	Clearing Trust Fund. Beginning July 1, 2003, the amount to be	
5504	transferred shall be reduced by 0.1 percent, and the department	
5505	shall distribute this amount to the Public Employees Relations	
5506	Commission Trust Fund less \$5,000 each month, which shall be	
5507	added to the amount calculated in subparagraph 3. and	
5508	distributed accordingly.	
5509	3. After the distribution under subparagraphs 1. and 2.,	
5510	0.095 percent shall be transferred to the Local Government Half-	
5511	cent Sales Tax Clearing Trust Fund and distributed pursuant to	
5512	s. 218.65.	
5513	4. After the distributions under subparagraphs 1., 2., and	
5514	3., 2.0440 percent of the available proceeds shall be	
5515	transferred monthly to the Revenue Sharing Trust Fund for	

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5516	Counties pursuant to s. 218.215.	
5517	5. After the distributions under subparagraphs 1., 2., and	
5518	3., 1.3409 percent of the available proceeds shall be	
5519	transferred monthly to the Revenue Sharing Trust Fund for	
5520	Municipalities pursuant to s. 218.215. If the total revenue to	
5521	be distributed pursuant to this subparagraph is at least as	
5522	great as the amount due from the Revenue Sharing Trust Fund for	
5523	Municipalities and the former Municipal Financial Assistance	
5524	Trust Fund in state fiscal year 1999-2000, no municipality shall	
5525	receive less than the amount due from the Revenue Sharing Trust	
5526	Fund for Municipalities and the former Municipal Financial	
5527	Assistance Trust Fund in state fiscal year 1999-2000. If the	
5528	total proceeds to be distributed are less than the amount	
5529	received in combination from the Revenue Sharing Trust Fund for	
5530	Municipalities and the former Municipal Financial Assistance	
5531	Trust Fund in state fiscal year 1999-2000, each municipality	
5532	shall receive an amount proportionate to the amount it was due	
5533	in state fiscal year 1999-2000.	
5534	6. Of the remaining proceeds:	
5535	a. In each fiscal year, the sum of \$29,915,500 shall be	
5536	divided into as many equal parts as there are counties in the	
5537	state, and one part shall be distributed to each county. The	
5538	distribution among the several counties must begin each fiscal	
5539	year on or before January 5th and continue monthly for a total	
5540	of 4 months. If a local or special law required that any moneys	
5541	accruing to a county in fiscal year 1999-2000 under the then-	
5542	existing provisions of s. 550.135 be paid directly to the	

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5543 district school board, special district, or a municipal
5544 government, such payment must continue until the local or
5545 special law is amended or repealed. The state covenants with
5546 holders of bonds or other instruments of indebtedness issued by
5547 local governments, special districts, or district school boards
5548 before July 1, 2000, that it is not the intent of this
5549 subparagraph to adversely affect the rights of those holders or
5550 relieve local governments, special districts, or district school
5551 boards of the duty to meet their obligations as a result of
5552 previous pledges or assignments or trusts entered into which
5553 obligated funds received from the distribution to county
5554 governments under then-existing s. 550.135. This distribution
5555 specifically is in lieu of funds distributed under s. 550.135
5556 before July 1, 2000.

5557 b. The department shall distribute \$166,667 monthly
5558 pursuant to s. 288.1162 to each applicant certified as a
5559 facility for a new or retained professional sports franchise
5560 pursuant to s. 288.1162. Up to \$41,667 shall be distributed
5561 monthly by the department to each certified applicant as defined
5562 in s. 288.11621 for a facility for a spring training franchise.
5563 However, not more than \$416,670 may be distributed monthly in
5564 the aggregate to all certified applicants for facilities for
5565 spring training franchises. Distributions begin 60 days after
5566 such certification and continue for not more than 30 years,
5567 except as otherwise provided in s. 288.11621. A certified
5568 applicant identified in this sub-subparagraph may not receive
5569 more in distributions than expended by the applicant for the

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5570 public purposes provided for in s. 288.1162(5) or s.
5571 288.11621(3).

5572 c. Beginning 30 days after notice by the Office of Tourism,
5573 Trade, and Economic Development to the Department of Revenue
5574 that an applicant has been certified as the professional golf
5575 hall of fame pursuant to s. 288.1168 and is open to the public,
5576 \$166,667 shall be distributed monthly, for up to 300 months, to
5577 the applicant.

5578 d. Beginning 30 days after notice by the Office of Tourism,
5579 Trade, and Economic Development to the Department of Revenue
5580 that the applicant has been certified as the International Game
5581 Fish Association World Center facility pursuant to s. 288.1169,
5582 and the facility is open to the public, \$83,333 shall be
5583 distributed monthly, for up to 168 months, to the applicant.
5584 This distribution is subject to reduction pursuant to s.
5585 288.1169. A lump sum payment of \$999,996 shall be made, after
5586 certification and before July 1, 2000.

5587 7.a. Beginning July 1, 2011, and notwithstanding any other
5588 provisions of law to the contrary, for each state fiscal year
5589 beginning on or after July 1, 2011, each affected local
5590 government's estimated savings from pension reform shall be
5591 subtracted, in ten equal monthly installments during September
5592 through June of each year, from, in order, the distributions in
5593 subparagraph 4., in subparagraph 5., and in subparagraph 3. and
5594 distributed to the General Revenue Fund. If the full amount of
5595 the savings from pension reform for a particular county or
5596 municipality is not deducted during the ten month period, the

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5597 excess amount shall be deducted during the following July and
5598 August of that year.

5599 b. Such reductions shall under no circumstances materially
5600 or adversely affect the rights of holders of outstanding bonds
5601 which are backed by distributions authorized in these
5602 subparagraphs, and the amounts distributed to each county
5603 government and each municipality shall not be reduced below the
5604 amount necessary for the payment of principal and interest and
5605 reserves for principal and interest as required under the
5606 covenants of any bond resolution outstanding on the date of the
5607 redistribution.

5608 c. 1. For purposes of this subparagraph and applicable
5609 beginning July 1, 2012, "estimated savings from pension reform"
5610 shall be the sum of mandatory employee contributions paid by all
5611 members of the Florida Retirement System and reported by each
5612 county and municipality during the prior state fiscal year.

5613 2. For purposes of this subparagraph and applicable to the
5614 2011-12 fiscal year only, "estimated savings from pension
5615 reform" shall be determined by multiplying the total payroll,
5616 excluding payroll of deferred optional retirement program
5617 participants, reported to the Department of Management Services
5618 during the 2010-2011 state fiscal year by each county and
5619 municipality by 5 percent.

5620 d. By August 15 of each year, the Department of Management
5621 Services shall certify to the department the estimated annual
5622 savings from pension reform adopted in HB/SB/Chapter xxx, Laws
5623 of Florida, for each county and municipality participating in

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5624 | the Florida Retirement System.

5625 | ~~8.7.~~ All other proceeds must remain in the General Revenue
5626 | Fund.

5627 | Section 35. The Legislature finds that a proper and
5628 | legitimate state purpose is served when employees and retirees
5629 | of the state and its political subdivisions, and the dependents,
5630 | survivors, and beneficiaries of such employees and retirees, are
5631 | extended the basic protections afforded by governmental
5632 | retirement systems. These persons must be provided benefits that
5633 | are fair and adequate and that are managed, administered, and
5634 | funded in an actuarially sound manner, as required by s. 14,
5635 | Article X of the State Constitution and part VII of chapter 112,
5636 | Florida Statutes. Therefore, the Legislature determines and
5637 | declares that this act fulfills an important state interest.

5638 | Section 36. For the 2011-2012 fiscal year, the sums of
5639 | \$93,103 of recurring funds and \$534,000 of non-recurring funds
5640 | from the Florida Retirement System Operating Trust Fund are
5641 | appropriated to, and two full-time equivalent positions are
5642 | authorized for, the Division of Retirement within the Department
5643 | of Management Services for the purpose of implementing this act.

5644 | Section 37. (1)Effective upon this act becoming a law, the
5645 | State Board of Administration and the Department of Management
5646 | Services shall request, as soon as practicable, a determination
5647 | letter and private letter ruling from the United States Internal
5648 | Revenue Service. If the Internal Revenue Service refuses to act
5649 | upon a request for a private letter ruling, then a legal opinion
5650 | from a qualified tax attorney or firm may be substituted for

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5651 such private letter ruling.

5652 (2) If the board or the department receives notification
5653 from the United States Internal Revenue Service that this act or
5654 any portion of this act will cause the Florida Retirement
5655 System, or a portion thereof, to be disqualified for tax
5656 purposes under the Internal Revenue Code, then the portion that
5657 will cause the disqualification does not apply. Upon such
5658 notice, the state board and the department shall notify the
5659 presiding officers of the Legislature.

5660 Section 38. Except as otherwise provided herein, this act
5661 shall take effect July 1, 2011.