



Appropriations Committee

Friday, March 8, 2013
10:00 AM – 1:00 PM
212 Knott Building

Meeting Packet

Will Weatherford
Speaker

Seth McKeel
Chair



The Florida House of Representatives
Appropriations Committee

Will Weatherford
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AGENDA



Friday, March 8, 2013
212 Knott Building
10:00 AM – 1:00 PM

- I. Call to Order/Roll Call
- II. Opening Remarks by Chair McKeel
- III. Consideration of the following bill:

HB 7011 Florida Retirement System by Government Operations Subcommittee, Brodeur
- IV. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7011 PCB GVOPS 13-01 Florida Retirement System
SPONSOR(S): Government Operations Subcommittee, Brodeur
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Subcommittee	9 Y, 3 N	Harrington	Williamson
1) Appropriations Committee		Delaney 	Leznoff 
2) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Retirement System (FRS) is a multi-employer, contributory plan that provides retirement income benefits to 623,011 active members, 334,682 retired members and beneficiaries, and 40,556 members of the Deferred Retirement Option Program. It is the primary retirement plan for employees of the state and county government agencies, district school boards, community colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 185 cities and 257 independent hospitals and special districts that have elected to join the system.

Members of the FRS have two plan options available for participation: the defined benefit plan, also known as the pension plan, and the defined contribution plan, also known as the investment plan. In addition to the two primary plans, some eligible members have the choice of participating in optional retirement plans, which include the Senior Management Service Optional Annuity Program, State Community College System Optional Retirement Program, and the State University System Optional Retirement Program.

This bill makes changes to the FRS, including, but not limited to:

- Closing the pension plan (defined benefit) to new enrollees, and requiring all new enrollees to participate in the investment plan (defined contribution), effective January 1, 2014;
- Eliminating the option for new enrollees to apply for disability benefits, effective January 1, 2014;
- Expanding the investment options available to investment plan members;
- Closing the Senior Management Service Optional Annuity Program to new participants and prohibits elected officials from joining the Senior Management Services Class, effective January 1, 2014.

The bill does not impact the ability of any current FRS enrollee to select participation in the pension plan or the investment plan. Changes included in the bill only pertain to new enrollees initially enrolled in the system on or after January 1, 2014.

The bill provides that a proper and legitimate state purpose is served, which includes providing benefits that are managed, administered, and funded in an actuarially sound manner.

Based on the results of a special actuarial study performed by the Milliman actuarial and consulting firm, dated March 1, 2013, the bill does not have a fiscal impact on state or local governments for fiscal year 2013-14. However, it is projected to a negative fiscal impact in fiscal year 2014-15 (negative \$335 thousand in General Revenue and negative \$2.7 million for all participating entities). In fiscal year 2016-17, the bill has a positive impact (\$9.5 million in General Revenue and \$12.9 million for all participating entities). The savings continues to increase each year over the period covered by the study. See Fiscal Comments section for further discussion.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7011.APC.DOCX

DATE: 3/4/2013

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the pension plan, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.¹ The FRS is a contributory system, with all members contributing 3 percent of their salaries.²

The FRS is governed by the Florida Retirement System Act.³ The FRS, which is a multi-employer, contributory plan, provides retirement income benefits to 623,011 active members,⁴ 334,682 retired members and beneficiaries, and 40,556 members of the Deferred Retirement Option Program.⁵ It is the primary retirement plan for employees of state and county government agencies, district school boards, community colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 185 cities and 257 independent hospitals and special districts that have elected to join the system.⁶

The membership of the FRS is divided into five membership classes:⁷

- Regular Class⁸ consists of 543,195 members (87 percent of the membership);
- Special Risk Class⁹ includes 70,005 members (11.2 percent);
- Special Risk Administrative Support Class¹⁰ has 59 members (.009 percent);
- Elected Officers' Class¹¹ has 2,206 members (0.35 percent); and
- Senior Management Service Class¹² has 7,546 members (1.21 percent).

Each class is funded separately based upon the costs attributable to the members of that class.

¹ *The Florida Retirement System Annual Report*, July 1, 2010 – June 30, 2011, at 38. A copy of the report can be found online at: http://www.dms.myflorida.com/human_resource_support/retirement/publications/system_information/annual_reports.

² Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011.

³ Chapter 121, F.S.

⁴ As of June 30, 2012, the FRS defined benefit plan, also known as the pension plan, had 517,756 members, and the defined contribution plan, also known as the investment plan, had 105,255 members. Email from staff of the Division of Retirement, Department of Management Services, October 16, 2012 (on file with the Government Operations Subcommittee).

⁵ *Id.*

⁶ Florida Retirement System Participating Employers for Plan Year 2012-13, prepared by the Department of Management Services, Division of Retirement, Revised September 2012, at 8. A copy of the document can be found online at: http://www.dms.myflorida.com/human_resource_support/retirement/publications/informational_booklets.

⁷ *Florida Retirement System*, Department of Management Services PowerPoint Presentation before the Government Operations Subcommittee, January 16, 2013 (on file with the Government Operations Subcommittee).

⁸ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁹ The Special Risk Class is for members employed as: law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency technicians, among others. Section 121.0515, F.S.

¹⁰ The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the Florida Retirement System. Section 121.0515(8), F.S.

¹¹ The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

¹² The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. Section 121.055, F.S.

Members of the FRS have two primary plan options available for participation:

- The defined benefit plan, also known as the pension plan; and
- The defined contribution plan, also known as the investment plan.

Certain members, as specified by law and position title, may, in lieu of FRS participation, participate in optional retirement plans.

Investment Plan

In 2000, the Legislature created the Public Employee Optional Retirement Program (investment plan), a defined contribution plan offered to eligible employees as an alternative to the FRS Pension Plan. The earliest that any member could participate in the investment plan was July 1, 2002.

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and earnings. Benefits are provided through employee-directed investments offered by approved investment providers.

A member vests immediately in all employee contributions paid to the investment plan.¹³ With respect to the employer contributions, a member vests after completing one work year with an FRS employer.¹⁴ Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.¹⁵ The investment plan also provides disability coverage for both in-line-of-duty and regular disability retirement benefits.¹⁶ An FRS member who qualifies for disability while enrolled in the investment plan must apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.¹⁷

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.¹⁸ The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.¹⁹

Pension Plan

The pension plan is administered by the secretary of the Department of Management Services through the Division of Retirement.²⁰ Investment management is handled by the State Board of Administration.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.²¹ For members enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.²² Benefits payable under the pension plan are calculated based on years of service x accrual rate x average final

¹³ Section 121.4501(6)(a), F.S.

¹⁴ If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, then any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. Section 121.4501(6)(b) – (d), F.S.

¹⁵ Section 121.591, F.S.

¹⁶ See s. 121.4501(16), F.S.

¹⁷ Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate an in-line-of-duty disabled member up to 65 percent of the average monthly compensation as of the disability retirement date for special risk class members. Other members may receive up to 42 percent of the member's average monthly compensation for disability retirement benefits. If the disability occurs other than in the line of duty, the monthly benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date. Section 121.091(4)(f), F.S.

¹⁸ Section 121.4501(8), F.S.

¹⁹ Section 4, Art. IV, Fla. Const.

²⁰ Section 121.025, F.S.

²¹ Section 121.021(45)(a), F.S.

²² Section 121.021(45)(b), F.S.

compensation.²³ For most members of the pension plan, normal retirement occurs at the earliest attainment of 30 years of service or age 62.²⁴ For public safety employees in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earliest of 25 years of service or age 55.²⁵ Members initially enrolled in the pension plan on or after July 1, 2011, have longer vesting requirements. For members initially enrolled after that date, the member must complete 33 years of service or attain age 65, and members in the Special Risk Classes must complete 30 years of service or attain age 60.²⁶

Optional Retirement Programs

Eligible employees may choose to participate in one of three retirement programs instead of participating in the FRS:

- Members of the Senior Management Service Class may elect to enroll in the Senior Management Service Optional Annuity Program;²⁷
- Members in specified positions in the State University System may elect to enroll in the State University System Optional Retirement Program;²⁸ and
- Members of a Florida college may elect to enroll in the State Community College System Optional Retirement Program.²⁹

Contribution Rates

FRS employers are responsible for contributing a set percentage of the member's monthly compensation to the Division of Retirement to be distributed into the FRS Contributions Clearing Trust Fund. The employer contribution rate is a blended contribution rate set by statute, which is the same percentage regardless of whether the member participates in the pension plan or the investment plan.³⁰ The rate is determined annually based on an actuarial study by the Department of Management Services that calculates the necessary level of funding to support all of the benefit obligations under both FRS retirement plans.

The following are the current employer contribution rates for each class:³¹

Membership Class	Effective July 1, 2012
Regular Class	3.55%
Special Risk Class	11.01%
Special Risk Administrative Support Class	3.94%
Elected Officer's Support Class <ul style="list-style-type: none"> • Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders • Justices and Judges • County Officers 	6.51%
Senior Management Service Class	4.84%

²³ Section 121.091, F.S.

²⁴ Section 121.021(29)(a)1., F.S.

²⁵ Section 121.021(29)(b)1., F.S.

²⁶ Sections 121.021(29)(a)2. and (b)2., F.S.

²⁷ The Senior Management Service Optional Annuity Program (SMSOAP) was established in 1986 for members of the Senior Management Service Class. Employees in eligible positions may irrevocably elect to participate in the SMSOAP rather than the FRS. Section 121.055(6), F.S.

²⁸ Eligible participants of the State University System Optional Retirement Program (SUSORP) are automatically enrolled in the SUSORP. However, the member must execute a contract with a SUSORP provider within the first 90 days of employment or the employee will default into the pension plan. If the employee decides to remain in the SUSORP, the decision is irrevocable and the member must remain in the SUSORP as long as the member remains in a SUSORP-eligible position. Section 121.35, F.S.

²⁹ If the member is eligible for participation in a State Community College System Optional Retirement Program, the member must elect to participate in the program within 90 days of employment. Unlike the other optional programs, an employee who elects to participate in this optional retirement program has one opportunity to transfer to the FRS. Section 1012.875, F.S.

³⁰ Section 121.70(1), F.S.

³¹ Section 121.71(4), F.S.

Regardless of employee class, all employees contribute 3 percent of their compensation towards retirement.³²

After employer and employee contributions are placed into the FRS Contributions Clearing Trust Fund, the allocations under the investment plan are transferred to third-party administrators to be placed in the employee's individual investment accounts, whereas contributions under the pension plan are transferred into the FRS Trust Fund.³³

Effect of the Bill

The bill makes changes to the FRS; however, benefits already earned are not impacted by changes in this bill. In addition, employees who are initially enrolled in the FRS before January 1, 2014, will not have their retirement choices impacted.

Effective January 1, 2014, the bill:

- Closes the pension plan (defined benefit) to new enrollees, and requires all new enrollees to participate in the investment plan (defined contribution);
- Eliminates the option for new enrollees to apply for disability benefits;
- Expands the investment options available to investment plan members;
- Closes the Senior Management Service Optional Annuity Program to new participants; and
- Prohibits elected officials from joining the Senior Management Service Class in lieu of participation in the Elected Officers' Class.

Closing the Pension Plan

The bill provides that new enrollees in the FRS will be compulsory members of the investment plan. Enrollees initially enrolled in the system before January 1, 2014, will continue to have a choice between the two primary plans, but members enrolled on or after January 1, 2014, will be automatically enrolled into the investment plan.

Except for members who are eligible for an optional retirement plan, or eligible to withdraw from the FRS, all other new members will be compulsory members of the investment plan.

Disability Benefits

The bill provides that members of the FRS, who initially enroll on or after January 1, 2014, will not be eligible for disability benefits.

Investment Options

The bill directs the State Board of Administration (SBA) to create investment products that will be offered to participants in the investment plan. In addition, the SBA is directed to contract for employee-directed brokerage services to be offered to increase investment plan investment options. The bill provides criteria for the SBA to consider when selecting the provider of the brokerage services, requirements for the provider, as well as minimum investment requirements for participation in the brokerage account.

Optional Retirement Programs

The bill closes the Senior Management Service Optional Annuity Program to new members on January 1, 2014. Any member may elect to participate in the annuity program before January 1, 2014, and members currently enrolled in the annuity program may continue to participate in that program. However, no new members may join the program on or after January 1, 2014.

³² Section 121.71(3), F.S.

³³ See ss. 121.4503 and 121.72(1), F.S.

The bill provides that an employee who has elected to participate in the State Community College System Optional Retirement Program may elect to withdraw from the optional retirement program and transfer to the FRS before December 31, 2013. After that date, an employee who elects to participate in the State Community College System Optional Retirement Program may not transfer out of the optional retirement program. As a result, the bill makes the employee's election to participate in this optional program irrevocable on and after January 1, 2014.

The bill provides that new enrollees who are eligible for the State University System Optional Retirement Program will default to the FRS Investment Plan on and after January 1, 2014 if the member does not elect to participate in the optional retirement program. Currently, the member defaults into the pension plan.

Elected Officials

The bill prohibits elected officials from joining the Senior Management Service Class in lieu of participating in the Elected Officers' Class. Because the Senior Management Service Optional Annuity Program will not be offered on or after January 1, 2014, elected officers will no longer be able to switch service classes for the purpose of participating in the optional annuity program. Instead, elected officials can participate in the FRS or withdraw from the system.³⁴

Miscellaneous Provisions

The bill provides a statement of important state interest. It also directs the State Board of Administration and the Department of Management Services to request a determination letter from the Federal Internal Revenue Service (IRS) upon the bill becoming a law. If the IRS refuses to act on the request for a determination letter, a legal opinion from a tax attorney can be substituted.

The bill also provides that if any portion of the bill would cause the FRS to be disqualified for tax purposes under the Internal Revenue Code, then that portion of the bill would not apply. The State Board of Administration and the Department of Management Services must notify the Legislature if any portion of the bill cannot be implemented.

B. SECTION DIRECTORY:

Section 1 amends s. 121.051, F.S., limiting the ability of members of the State Community College System Optional Retirement Program to transfer to the FRS; providing for compulsory membership in the FRS Investment Plan for employees initially enrolled after a specified date; authorizing certain employees to participate in the investment plan.

Section 2 amends s. 121.052, F.S., prohibiting members of the Elected Officers' Class from joining the Senior Management Service Class after a specified date.

Section 3 amends s. 121.055, F.S., closing the Senior Management Service Optional Annuity Program to new members on a specified date and prohibiting an elected official eligible for membership in the Elected Officers' Class from enrolling in the Senior Management Service Class Optional Annuity Program.

Section 4 amends s. 121.35, F.S., providing that certain participants in the optional retirement program for the State University System have a choice between the optional retirement program and the FRS Investment Plan; providing for compulsory membership in the investment plan for certain employees.

Section 5 amends s. 121.4501, F.S., requiring certain employees initially enrolled in the FRS on or after a specified date to be compulsory members of the investment plan; providing for the transfer of certain contributions; revising a provision relating to acknowledgment of an employee's election to participate in the investment plan; requiring the SBA to develop investment products to be offered in the investment plan; requiring the SBA to provide a self-directed brokerage account as an investment

³⁴ Members of the Elected Officers' Class may withdraw from the FRS. Section 121.052(3), F.S.

option; providing self-directed brokerage account requirements; revising the education component; deleting the obligation of system employers to communicate the existence of both retirement plans; providing the state board and the provider of the self-directed brokerage account investment option with certain responsibilities; providing that the state board is not required to deliver certain information regarding the self-directed brokerage account; making conforming changes; removing unnecessary language; and providing that certain investment plan members are not entitled to disability benefits.

Section 6 amends s. 121.591, F.S., limiting disability benefits to eligible members.

Section 7 amends s. 121.71, F.S., revising the required employer retirement contribution rates for members of each membership class and subclass of the FRS. The rates in the bill are currently placeholders.

Section 8 amends s. 238.072, F.S., conforming cross references.

Section 9 amends s. 413.051, F.S., conforming cross references.

Section 10 provides that the act fulfills an important state interest.

Section 11 requires the SBA and the Department of Management Services to request a determination letter from the United States Internal Revenue Service; providing for severability.

Section 12 provides an effective date of July 1, 2013, unless otherwise expressly provided in the act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments Section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments Section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

An actuarial special study was performed by the Milliman actuarial and consulting firm through the Department of Management Services, at the request of the Speaker. The purpose of the study, dated March 1, 2013, was to determine the fiscal impact of requiring new enrollees to participate in the Investment Plan and prohibiting future enrollment in the Pension Plan, effective January 1, 2014. The study provided a comparison between closing the plan to new enrollees to continuing the current plan using the same assumptions in order to provide an equitable comparison.

Based on the results of the study, the fiscal impact for fiscal year 2013-2014 is insignificant and the projected savings/(costs) for select subsequent years is summarized in the table below (in millions \$).

<i>Employer Funded by State</i>	FY 2014-15		FY 2015-16		FY 2016-17		2023-24		2042-43	
	GR	TF	GR	TF	GR	TF	GR	TF	GR	TF
State	(0.3)	(0.3)	0.9	0.9	2.3	2.3	26.4	26.3	731.9	731.9
School Boards	(0.1)	-	7.1	-	15.3	-	136.6	-	3,758.9	-
State Universities	-	-	1.0	-	2.5	-	30.8	-	1,101.6	-
State Colleges	-	-	0.5	-	1.2	-	11.3	-	319.2	-
Total	(0.4)	(0.3)	9.5	0.9	21.3	2.3	205.1	26.3	5,911.6	731.9
<i>Employer Not Funded by State</i>										
Counties	(1.8)		1.9		5.4		79.8		2,698.3	
Cities/Other	(0.2)		0.6		1.6		16.4		490.8	
Grand Total	(2.4)	(0.3)	12.0	0.9	28.3	2.3	301.3	26.3	9,100.7	731.9

The actuarial study projects increasing savings for the 30 year period of the study. However, the actuary verbally confirmed that the rate of return would start experiencing increasing downward pressure starting after the 10th year, and other assumptions would start proving increasingly unreliable sometime between the 5th and 10th year. However, the rates produced by the comparative analysis to the current plan, using the same assumptions, yield the theoretical savings noted above.

Closing the Senior Management Service Class Optional Annuity Program to new participants will have an insignificant fiscal impact on the FRS.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision of Art. VII, s. 18, of the State Constitution may apply because this bill requires cities and counties to spend money or take action that requires the expenditure of money. An exception to this provision applies in instances where the legislature finds that the bill fulfills an important state interest and when similarly situated persons are required to comply. This bill contains a statement indicating that the bill fulfills an important state interest and the bill applies to similarly situated persons (all employers who participate in the FRS) so it appears that this exception would apply.

Additionally, the Florida Constitution provides an exemption to the mandates provision for bills that have an insignificant fiscal impact. Traditionally, the Legislature interprets the term insignificant fiscal impact to mean an amount not greater than the average statewide population for the applicable fiscal year times ten cents. For the 2013-2014 fiscal year, this calculation would be approximately \$1.9

million. As indicated in the actuarial study above, this bill is expected to have a negative impact on counties and cities of approximately \$2 million in the 2014-2015 fiscal year. However, in the 2015-2016 fiscal year, the bill will result in a positive fiscal impact on counties and cities of approximately \$2.5 million and in the 2016-2017 fiscal year, the bill will result in a positive fiscal impact on counties and cities of \$7 million.

2. Other:

Actuarial Requirements

Article X, s. 14 of the State Constitution requires that benefit improvements under public pension plans in the State of Florida be concurrently funded on a sound actuarial basis, as set forth below:

SECTION 14. State retirement systems benefit changes.--A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

Article X, s. 14 of the State Constitution is implemented by statute under part VII of ch. 112, F.S., the "Florida Protection of Public Employee Retirement Benefits Act" (Act). The Act establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. It prohibits the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers.

Contractual Obligations

Article I, s. 10 of the State Constitution prohibits any bill of attainder, ex post facto law, or law impairing the obligation of contracts from being passed by the Florida Legislature.

The Florida Statutes provide that the rights of members of the FRS are of a contractual nature, entered into between the member and the state, and such rights are legally enforceable as valid contractual rights and may not be abridged in any way.³⁵ This "preservation of rights" provision³⁶ was established by the Florida Legislature with an effective date of July 1, 1974.

The Florida Supreme Court has held that the Florida Legislature may only alter the benefits structure of the FRS prospectively.³⁷ The prospective application would only alter future benefits. Those benefits previously earned or accrued by the member, under the previous benefit structure, remain untouched and the member continues to enjoy that level of benefit for the period of time up until the effective date of the proposed changes. Further, once the participating member reaches retirement status, the benefits under the terms of the FRS in effect at the time of the member's retirement vest.³⁸

The Florida Supreme Court further held that the "preservation of rights" provision was not intended to bind future legislatures from prospectively altering benefits which accrue for future state service.³⁹ More recently, the Florida Supreme Court reaffirmed the previous holding, finding that the Legislature can alter the terms of the FRS, so long as the changes to the FRS are prospective.⁴⁰

³⁵ Section 121.011(3)(d), F.S.

³⁶ The "preservation of rights" provision vests all rights and benefits already earned under the present retirement plan so the legislature may now only alter the benefits prospectively. *Florida Sheriffs Association v. Department of Administration, Division of Retirement*, 408 So.2d 1033, 1037 (Fla. 1981).

³⁷ *Id.* at 1035.

³⁸ *Id.* at 1036.

³⁹ *Id.* at 1037.

⁴⁰ *Rick Scott, et al. v. George Williams, et al.*, 2013 WL 173955 (Fla. 2013).

This bill does not change any benefits that a member earned prior to January 1, 2014. In fact, members enrolled in the FRS before January 1, 2014, should experience no change in the benefits available under the FRS. The bill only changes the FRS system for participants initially enrolling in the system on or after January 1, 2014.

B. RULE-MAKING AUTHORITY:

The constitutional separation of powers doctrine prevents the Legislature from delegating its constitutional duties. Because legislative power involves the exercise of policy-related discretion over the content of law, any discretion given an agency to implement a law must be "pursuant to some minimal standards and guidelines ascertainable by reference to the enactment establishing the program."⁴¹ The bill grants rulemaking authority to the SBA to implement provisions of the bill and provides standards for such implementation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Death and Disability Benefits

The Florida House of Representatives has requested the Department of Management Services to perform three actuarial studies to determine the fiscal impact on the state and other participating FRS employers associated with the following death or disability benefit options for investment plan participants as follows:

- Employees initially enrolled in the FRS on or after January 1, 2014, will not be eligible to elect to switch to the defined benefit plan for purposes of receiving a disability benefit. The department indicated the study will be completed by February 15, 2013. The study has been received and analyzed and results included in this analysis.
- Employees initially enrolled in the FRS on or after January 1, 2014, will be eligible to transfer to the pension plan for purposes of receiving a disability benefit in the same manner as provided in current law. The department indicated the study will be completed by March 8, 2013.
- Providing in-line-of-duty survivor benefits for all members of the investment plan. The department indicated the study will be completed by April 4, 2013.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

⁴¹ *Askew v. Cross Key Waterways*, 372 So.2d 913, 925 (Fla. 1978).

1 A bill to be entitled
 2 An act relating to the Florida Retirement System;
 3 amending s. 121.051, F.S.; limiting the ability of
 4 members of an optional retirement program to transfer
 5 to the Florida Retirement System; providing for
 6 compulsory membership in the Florida Retirement System
 7 Investment Plan for employees initially enrolled after
 8 a specified date; authorizing certain employees to
 9 participate in the investment plan; amending s.
 10 121.052, F.S.; prohibiting members of the Elected
 11 Officers' Class from joining the Senior Management
 12 Service Class after a specified date; amending s.
 13 121.055, F.S.; closing the Senior Management Service
 14 Optional Annuity Program to new members after a
 15 specified date; prohibiting an elected official
 16 eligible for membership in the Elected Officers' Class
 17 from enrolling in the Senior Management Service Class
 18 or in the Senior Management Service Optional Annuity
 19 Program; closing the Senior Management Service
 20 Optional Annuity Program to new members after a
 21 specified date; amending s. 121.35, F.S.; providing
 22 that certain participants in the optional retirement
 23 program for the State University System have a choice
 24 between the optional retirement program and the
 25 Florida Retirement System Investment Plan; providing
 26 for compulsory membership in the investment plan for
 27 certain employees; amending s. 121.4501, F.S.;
 28 requiring certain employees initially enrolled in the

29 Florida Retirement System on or after a specified date
 30 to be compulsory members of the investment plan;
 31 providing for the transfer of certain contributions;
 32 revising a provision relating to acknowledgment of an
 33 employee's election to participate in the investment
 34 plan; requiring the State Board of Administration to
 35 develop investment products to be offered in the
 36 investment plan; requiring the State Board of
 37 Administration to provide a self-directed brokerage
 38 account as an investment option; requiring the state
 39 board to contract with a provider to provide a self-
 40 directed brokerage account investment option;
 41 providing self-directed brokerage account
 42 requirements; revising the education component;
 43 deleting the obligation of system employers to
 44 communicate the existence of both retirement plans;
 45 providing the state board and the provider of the
 46 self-directed brokerage account investment option with
 47 certain responsibilities; providing that the state
 48 board is not required to deliver certain information
 49 regarding the self-directed brokerage account; making
 50 conforming changes; removing unnecessary language;
 51 providing that certain investment plan members are not
 52 entitled to disability benefits; amending s. 121.591,
 53 F.S.; limiting disability benefits to eligible
 54 members; amending s. 121.71, F.S.; revising the
 55 required employer retirement contribution rates for
 56 members of each membership class and subclass of the

57 Florida Retirement System; amending ss. 238.072 and
 58 413.051, F.S.; conforming cross-references; providing
 59 that the act fulfills an important state interest;
 60 requiring the State Board of Administration and the
 61 Department of Management Services to request a
 62 determination letter from the Internal Revenue
 63 Service; providing effective dates.

64
 65 Be It Enacted by the Legislature of the State of Florida:

66
 67 Section 1. Paragraph (c) of subsection (2) of section
 68 121.051, Florida Statutes, is amended, subsections (3) through
 69 (9) of that section are renumbered as subsections (4) through
 70 (10), respectively, and a new subsection (3) is added to that
 71 section, to read:

72 121.051 Participation in the system.-

73 (2) OPTIONAL PARTICIPATION.-

74 (c) Employees of public community colleges or charter
 75 technical career centers sponsored by public community colleges,
 76 designated in s. 1000.21(3), who are members of the Regular
 77 Class of the Florida Retirement System and who comply with the
 78 criteria set forth in this paragraph and s. 1012.875 may, in
 79 lieu of participating in the Florida Retirement System, elect to
 80 withdraw from the system altogether and participate in the State
 81 Community College System Optional Retirement Program provided by
 82 the employing agency under s. 1012.875.

83 1.a. Through June 30, 2001, the cost to the employer for
 84 benefits under the optional retirement program equals the normal

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85 cost portion of the employer retirement contribution which would
 86 be required if the employee were a member of the pension plan's
 87 Regular Class, plus the portion of the contribution rate
 88 required by s. 112.363(8) which would otherwise be assigned to
 89 the Retiree Health Insurance Subsidy Trust Fund.

90 b. Effective July 1, 2001, through June 30, 2011, each
 91 employer shall contribute on behalf of each member of the
 92 optional program an amount equal to 10.43 percent of the
 93 employee's gross monthly compensation. The employer shall deduct
 94 an amount for the administration of the program.

95 c. Effective July 1, 2011, through June 30, 2012, each
 96 member shall contribute an amount equal to the employee
 97 contribution required under s. 121.71(3). The employer shall
 98 contribute on behalf of each program member an amount equal to
 99 the difference between 10.43 percent of the employee's gross
 100 monthly compensation and the employee's required contribution
 101 based on the employee's gross monthly compensation.

102 d. Effective July 1, 2012, each member shall contribute an
 103 amount equal to the employee contribution required under s.
 104 121.71(3). The employer shall contribute on behalf of each
 105 program member an amount equal to the difference between 8.15
 106 percent of the employee's gross monthly compensation and the
 107 employee's required contribution based on the employee's gross
 108 monthly compensation.

109 e. The employer shall contribute an additional amount to
 110 the Florida Retirement System Trust Fund equal to the unfunded
 111 actuarial accrued liability portion of the Regular Class
 112 contribution rate.

113 2. The decision to participate in the optional retirement
 114 program is irrevocable as long as the employee holds a position
 115 eligible for participation, except as provided in subparagraph

116 3. Any service creditable under the Florida Retirement System is
 117 retained after the member withdraws from the system; however,
 118 additional service credit in the system may not be earned while
 119 a member of the optional retirement program.

120 3. Effective July 1, 2003, through December 31, 2013, an
 121 employee who has elected to participate in the optional
 122 retirement program shall have one opportunity, at the employee's
 123 discretion, to transfer from the optional retirement program to
 124 the pension plan of the Florida Retirement System or to the
 125 investment plan established under part II of this chapter,
 126 subject to the terms of the applicable optional retirement
 127 program contracts. Except as provided in subsection (3), an
 128 employee participating in the optional retirement program on or
 129 after January 1, 2014, is not eligible to transfer to the
 130 Florida Retirement System.

131 a. If the employee chooses to move to the investment plan,
 132 any contributions, interest, and earnings creditable to the
 133 employee under the optional retirement program are retained by
 134 the employee in the optional retirement program, and the
 135 applicable provisions of s. 121.4501(4) govern the election.

136 b. If the employee chooses to move to the pension plan of
 137 the Florida Retirement System, the employee shall receive
 138 service credit equal to his or her years of service under the
 139 optional retirement program.

140 (I) The cost for such credit is the amount representing

141 | the present value of the employee's accumulated benefit
 142 | obligation for the affected period of service. The cost shall be
 143 | calculated as if the benefit commencement occurs on the first
 144 | date the employee becomes eligible for unreduced benefits, using
 145 | the discount rate and other relevant actuarial assumptions that
 146 | were used to value the Florida Retirement System Pension Plan
 147 | liabilities in the most recent actuarial valuation. The
 148 | calculation must include any service already maintained under
 149 | the pension plan in addition to the years under the optional
 150 | retirement program. The present value of any service already
 151 | maintained must be applied as a credit to total cost resulting
 152 | from the calculation. The division must ensure that the transfer
 153 | sum is prepared using a formula and methodology certified by an
 154 | enrolled actuary.

155 | (II) The employee must transfer from his or her optional
 156 | retirement program account and from other employee moneys as
 157 | necessary, a sum representing the present value of the
 158 | employee's accumulated benefit obligation immediately following
 159 | the time of such movement, determined assuming that attained
 160 | service equals the sum of service in the pension plan and
 161 | service in the optional retirement program.

162 | 4. Participation in the optional retirement program is
 163 | limited to employees who satisfy the following eligibility
 164 | criteria:

165 | a. The employee is otherwise eligible for membership or
 166 | renewed membership in the Regular Class of the Florida
 167 | Retirement System, as provided in s. 121.021(11) and (12) or s.
 168 | 121.122.

169 b. The employee is employed in a full-time position
 170 classified in the Accounting Manual for Florida's Public
 171 Community Colleges as:
 172 (I) Instructional; or
 173 (II) Executive Management, Instructional Management, or
 174 Institutional Management and the community college determines
 175 that recruiting to fill a vacancy in the position is to be
 176 conducted in the national or regional market, and the duties and
 177 responsibilities of the position include the formulation,
 178 interpretation, or implementation of policies, or the
 179 performance of functions that are unique or specialized within
 180 higher education and that frequently support the mission of the
 181 community college.

182 c. The employee is employed in a position not included in
 183 the Senior Management Service Class of the Florida Retirement
 184 System as described in s. 121.055.

185 5. Members of the program are subject to the same
 186 reemployment limitations, renewed membership provisions, and
 187 forfeiture provisions applicable to regular members of the
 188 Florida Retirement System under ss. 121.091(9), 121.122, and
 189 121.091(5), respectively. A member who receives a program
 190 distribution funded by employer and required employee
 191 contributions is deemed to be retired from a state-administered
 192 retirement system if the member is subsequently employed with an
 193 employer that participates in the Florida Retirement System.

194 6. Eligible community college employees are compulsory
 195 members of the Florida Retirement System until, pursuant to s.
 196 1012.875, a written election to withdraw from the system and

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197 participate in the optional retirement program is filed with the
 198 program administrator and received by the division.

199 a. A community college employee whose program eligibility
 200 results from initial employment shall be enrolled in the
 201 optional retirement program retroactive to the first day of
 202 eligible employment. The employer and employee retirement
 203 contributions paid through the month of the employee plan change
 204 shall be transferred to the community college to the employee's
 205 optional program account, and, effective the first day of the
 206 next month, the employer shall pay the applicable contributions
 207 based upon subparagraph 1.

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

221 7. Effective July 1, 2003, through December 31, 2008, any
 222 member of the optional retirement program who has service credit
 223 in the pension plan of the Florida Retirement System for the
 224 period between his or her first eligibility to transfer from the

225 pension plan to the optional retirement program and the actual
 226 date of transfer may, during employment, transfer to the
 227 optional retirement program a sum representing the present value
 228 of the accumulated benefit obligation under the defined benefit
 229 retirement program for the period of service credit. Upon
 230 transfer, all service credit previously earned under the pension
 231 plan during this period is nullified for purposes of entitlement
 232 to a future benefit under the pension plan.

233 (3) INVESTMENT PLAN MEMBERSHIP COMPULSORY.-

234 (a) All eligible employees, except those eligible to
 235 withdraw from the system under s. 121.052(3)(d) or s.
 236 121.055(1)(b)2., or those eligible for optional retirement
 237 programs under s. 121.051(1)(a), s. 121.051(2)(c), or s. 121.35,
 238 initially enrolled on or after January 1, 2014, are compulsory
 239 members of the investment plan, and membership in the pension
 240 plan is not permitted. Employees initially enrolled on or after
 241 January 1, 2014, are not eligible to use the election
 242 opportunity specified in s. 121.4501(4)(e).

243 (b) Employees eligible to withdraw from the system under
 244 s. 121.052(3)(d) or s. 121.055(1)(b)2., may choose to withdraw
 245 from the system or to participate in the investment plan as
 246 provided in those sections. Employees eligible for optional
 247 retirement programs under s. 121.051(2)(c) or s. 121.35, may
 248 choose to participate in the optional retirement program or the
 249 investment plan as provided in those sections. Eligible
 250 employees required to participate in the optional retirement
 251 program under s. 121.35, pursuant to s. 121.051(1)(a), must
 252 participate in the investment plan when employed in a position

253 not eligible for the optional retirement program.

254 Section 2. Paragraph (c) of subsection (3) of section
255 121.052, Florida Statutes, is amended to read:

256 121.052 Membership class of elected officers.—

257 (3) PARTICIPATION AND WITHDRAWAL, GENERALLY.—Effective
258 July 1, 1990, participation in the Elected Officers' Class shall
259 be compulsory for elected officers listed in paragraphs (2)(a)-
260 (d) and (f) assuming office on or after said date, unless the
261 elected officer elects membership in another class or withdraws
262 from the Florida Retirement System as provided in paragraphs
263 (3)(a)-(d):

264 (c) Before January 1, 2014, any elected officer may,
265 within 6 months after assuming office, or within 6 months after
266 this act becomes a law for serving elected officers, elect
267 membership in the Senior Management Service Class as provided in
268 s. 121.055 in lieu of membership in the Elected Officers' Class.
269 Any such election made by a county elected officer shall have no
270 effect upon the statutory limit on the number of nonelective
271 full-time positions that may be designated by a local agency
272 employer for inclusion in the Senior Management Service Class
273 under s. 121.055(1)(b)1.

274 Section 3. Paragraph (f) of subsection (1) and paragraph
275 (c) of subsection (6) of section 121.055, Florida Statutes, are
276 amended to read:

277 121.055 Senior Management Service Class.—There is hereby
278 established a separate class of membership within the Florida
279 Retirement System to be known as the "Senior Management Service
280 Class," which shall become effective February 1, 1987.

281 (1)
 282 (f) Effective July 1, 1997, through December 31, 2013:
 283 1. Except as provided in subparagraphs ~~subparagraph~~ 3. and
 284 4., an elected state officer eligible for membership in the
 285 Elected Officers' Class under s. 121.052(2)(a), (b), or (c) who
 286 elects membership in the Senior Management Service Class under
 287 s. 121.052(3)(c) may, within 6 months after assuming office or
 288 within 6 months after this act becomes a law for serving elected
 289 state officers, elect to participate in the Senior Management
 290 Service Optional Annuity Program, as provided in subsection (6),
 291 in lieu of membership in the Senior Management Service Class.
 292 2. Except as provided in subparagraphs ~~subparagraph~~ 3. and
 293 4., an elected officer of a local agency employer eligible for
 294 membership in the Elected Officers' Class under s. 121.052(2)(d)
 295 who elects membership in the Senior Management Service Class
 296 under s. 121.052(3)(c) may, within 6 months after assuming
 297 office, or within 6 months after this act becomes a law for
 298 serving elected officers of a local agency employer, elect to
 299 withdraw from the Florida Retirement System, as provided in
 300 subparagraph (b)2., in lieu of membership in the Senior
 301 Management Service Class.
 302 3. A retiree of a state-administered retirement system who
 303 is initially reemployed in a regularly established position on
 304 or after July 1, 2010, as an elected official eligible for the
 305 Elected Officers' Class may not be enrolled in renewed
 306 membership in the Senior Management Service Class or in the
 307 Senior Management Service Optional Annuity Program as provided
 308 in subsection (6), and may not withdraw from the Florida

309 Retirement System as a renewed member as provided in
 310 subparagraph (b)2., as applicable, in lieu of membership in the
 311 Senior Management Service Class.

312 4. On or after January 1, 2014, an elected official
 313 eligible for membership in the Elected Officers' Class may not
 314 be enrolled in the Senior Management Service Class or in the
 315 Senior Management Service Optional Annuity Program as provided
 316 in subsection (6).

317 (6)

318 (c) Participation.—

319 1. An eligible employee who is employed on or before
 320 February 1, 1987, may elect to participate in the optional
 321 annuity program in lieu of participating in the Senior
 322 Management Service Class. Such election must be made in writing
 323 and filed with the department and the personnel officer of the
 324 employer on or before May 1, 1987. An eligible employee who is
 325 employed on or before February 1, 1987, and who fails to make an
 326 election to participate in the optional annuity program by May
 327 1, 1987, shall be deemed to have elected membership in the
 328 Senior Management Service Class.

329 2. Except as provided in subparagraph 6., an employee who
 330 becomes eligible to participate in the optional annuity program
 331 by reason of initial employment commencing after February 1,
 332 1987, may, within 90 days after the date of commencing
 333 employment, elect to participate in the optional annuity
 334 program. Such election must be made in writing and filed with
 335 the personnel officer of the employer. An eligible employee who
 336 does not within 90 days after commencing employment elect to

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337 | participate in the optional annuity program shall be deemed to
 338 | have elected membership in the Senior Management Service Class.

339 | 3. A person who is appointed to a position in the Senior
 340 | Management Service Class and who is a member of an existing
 341 | retirement system or the Special Risk or Special Risk
 342 | Administrative Support Classes of the Florida Retirement System
 343 | may elect to remain in such system or class in lieu of
 344 | participating in the Senior Management Service Class or optional
 345 | annuity program. Such election must be made in writing and filed
 346 | with the department and the personnel officer of the employer
 347 | within 90 days after such appointment. An eligible employee who
 348 | fails to make an election to participate in the existing system,
 349 | the Special Risk Class of the Florida Retirement System, the
 350 | Special Risk Administrative Support Class of the Florida
 351 | Retirement System, or the optional annuity program shall be
 352 | deemed to have elected membership in the Senior Management
 353 | Service Class.

354 | 4. Except as provided in subparagraph 5., an employee's
 355 | election to participate in the optional annuity program is
 356 | irrevocable if the employee continues to be employed in an
 357 | eligible position and continues to meet the eligibility
 358 | requirements set forth in this paragraph.

359 | 5. Effective from July 1, 2002, through September 30,
 360 | 2002, an active employee in a regularly established position who
 361 | has elected to participate in the Senior Management Service
 362 | Optional Annuity Program has one opportunity to choose to move
 363 | from the Senior Management Service Optional Annuity Program to
 364 | the Florida Retirement System Pension Plan.

365 a. The election must be made in writing and must be filed
 366 with the department and the personnel officer of the employer
 367 before October 1, 2002, or, in the case of an active employee
 368 who is on a leave of absence on July 1, 2002, within 90 days
 369 after the conclusion of the leave of absence. This election is
 370 irrevocable.

371 b. The employee shall receive service credit under the
 372 pension plan equal to his or her years of service under the
 373 Senior Management Service Optional Annuity Program. The cost for
 374 such credit is the amount representing the present value of that
 375 employee's accumulated benefit obligation for the affected
 376 period of service.

377 c. The employee must transfer the total accumulated
 378 employer contributions and earnings on deposit in his or her
 379 Senior Management Service Optional Annuity Program account. If
 380 the transferred amount is not sufficient to pay the amount due,
 381 the employee must pay a sum representing the remainder of the
 382 amount due. The employee may not retain any employer
 383 contributions or earnings from the Senior Management Service
 384 Optional Annuity Program account.

385 6. A retiree of a state-administered retirement system who
 386 is initially reemployed on or after July 1, 2010, may not renew
 387 membership in the Senior Management Service Optional Annuity
 388 Program.

389 7. Effective January 1, 2014, the Senior Management
 390 Service Optional Annuity Program is closed to new members.
 391 Members enrolled in the Senior Management Service Optional
 392 Annuity Program before January 1, 2014, may retain their

393 membership in the annuity program.

394 Section 4. Paragraph (c) of subsection (3) of section
395 121.35, Florida Statutes, is amended to read:

396 121.35 Optional retirement program for the State
397 University System.—

398 (3) ELECTION OF OPTIONAL PROGRAM.—

399 (c) Any employee who becomes eligible to participate in
400 the optional retirement program on or after January 1, 1993,
401 shall be a compulsory participant of the program unless such
402 employee elects membership in the Florida Retirement System.
403 Such election shall be made in writing and filed with the
404 personnel officer of the employer. Any eligible employee who
405 fails to make such election within the prescribed time period
406 shall be deemed to have elected to participate in the optional
407 retirement program.

408 1. Any employee whose optional retirement program
409 eligibility results from initial employment shall be enrolled in
410 the program at the commencement of employment. If, within 90
411 days after commencement of employment, the employee elects
412 membership in the Florida Retirement System, such membership
413 shall be effective retroactive to the date of commencement of
414 employment as provided in s. 121.4501(4).

415 2. Any employee whose optional retirement program
416 eligibility results from a change in status due to the
417 subsequent designation of the employee's position as one of
418 those specified in paragraph (2)(a) or due to the employee's
419 appointment, promotion, transfer, or reclassification to a
420 position specified in paragraph (2)(a) shall be enrolled in the

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421 optional retirement program upon such change in status and shall
 422 be notified by the employer of such action. If, within 90 days
 423 after the date of such notification, the employee elects to
 424 retain membership in the Florida Retirement System, such
 425 continuation of membership shall be retroactive to the date of
 426 the change in status.

427 3. Notwithstanding subparagraphs 1. and 2. ~~the provisions~~
 428 ~~of this paragraph~~, effective July 1, 1997, any employee who is
 429 eligible to participate in the Optional Retirement Program and
 430 who fails to execute a contract with one of the approved
 431 companies and to notify the department in writing as provided in
 432 subsection (4) within 90 days after the date of eligibility
 433 shall be deemed to have elected membership in the Florida
 434 Retirement System, except as provided in s. 121.051(1)(a). This
 435 provision shall also apply to any employee who terminates
 436 employment in an eligible position before executing the required
 437 investment annuity contract and notifying the department. Such
 438 membership shall be retroactive to the date of eligibility, and
 439 all appropriate contributions shall be transferred to the
 440 Florida Retirement System Trust Fund and the Health Insurance
 441 Subsidy Trust Fund. If a member is initially enrolled on or
 442 after January 1, 2014, the member is deemed to have elected
 443 membership in the Florida Retirement System Investment Plan and
 444 such membership shall be retroactive to the date of eligibility.
 445 All contributions required under s. 121.72, shall be transferred
 446 to a default fund in the investment plan as provided in s.
 447 121.4501(4)(f), and the Health Insurance Subsidy Trust Fund.

448 Section 5. Subsections (1) and (4), paragraph (c) of

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449 subsection (5), subsection (8), paragraph (a) of subsection (9),
 450 paragraphs (a), (b), (c), and (h) of subsection (10), paragraphs
 451 (a) and (c) of subsection (15), and subsection (16) of section
 452 121.4501, Florida Statutes, are amended, and paragraph (h) is
 453 added to subsection (9) of that section, to read:

454 121.4501 Florida Retirement System Investment Plan.—

455 (1) The Trustees of the State Board of Administration
 456 shall establish a defined contribution program called the
 457 "Florida Retirement System Investment Plan" or "investment plan"
 458 for members of the Florida Retirement System under which
 459 retirement benefits will be provided for eligible employees
 460 initially enrolled before January 1, 2014, who elect to
 461 participate in the program, and for all eligible employees
 462 initially enrolled on or after January 1, 2014, who shall be
 463 compulsory members unless otherwise eligible to withdraw from
 464 the system under s. 121.052(3)(d) or s. 121.055(1)(b)2., or to
 465 participate in an optional retirement program under s.
 466 121.051(1)(a), s. 121.051(2)(c), or s. 121.35. The retirement
 467 benefits shall be provided through member-directed investments,
 468 in accordance with s. 401(a) of the Internal Revenue Code and
 469 related regulations. The employer and employee shall make
 470 contributions, as provided in this section and ss. 121.571 and
 471 121.71, to the Florida Retirement System Investment Plan Trust
 472 Fund toward the funding of benefits.

473 (4) PARTICIPATION; ENROLLMENT.—

474 (a)1. Effective June 1, 2002, through February 28, 2003, a
 475 90-day election period is provided to each eligible employee
 476 participating in the Florida Retirement System, preceded by a

477 90-day education period, permitting each eligible employee to
 478 elect membership in the investment plan, and an employee who
 479 fails to elect the investment plan during the election period
 480 remains in the pension plan. An eligible employee employed in a
 481 regularly established position during the election period is
 482 granted the option to make one subsequent election, as provided
 483 in paragraph (e). With respect to an eligible employee who does
 484 not participate in the initial election period or who is
 485 initially employed in a regularly established position after the
 486 close of the initial election period but before January 1, 2014,
 487 on June 1, 2002, by a state employer:

488 ~~a. Any such employee may elect to participate in the~~
 489 ~~investment plan in lieu of retaining his or her membership in~~
 490 ~~the pension plan. The election must be made in writing or by~~
 491 ~~electronic means and must be filed with the third-party~~
 492 ~~administrator by August 31, 2002, or, in the case of an active~~
 493 ~~employee who is on a leave of absence on April 1, 2002, by the~~
 494 ~~last business day of the 5th month following the month the leave~~
 495 ~~of absence concludes. This election is irrevocable, except as~~
 496 ~~provided in paragraph (g). Upon making such election, the~~
 497 ~~employee shall be enrolled as a member of the investment plan,~~
 498 ~~the employee's membership in the Florida Retirement System is~~
 499 ~~governed by the provisions of this part, and the employee's~~
 500 ~~membership in the pension plan terminates. The employee's~~
 501 ~~enrollment in the investment plan is effective the first day of~~
 502 ~~the month for which a full month's employer contribution is made~~
 503 ~~to the investment plan.~~

504 ~~b. Any such employee who fails to elect to participate in~~

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505 ~~the investment plan within the prescribed time period is deemed~~
506 ~~to have elected to retain membership in the pension plan, and~~
507 ~~the employee's option to elect to participate in the investment~~
508 ~~plan is forfeited.~~

509 ~~2. With respect to employees who become eligible to~~
510 ~~participate in the investment plan by reason of employment in a~~
511 ~~regularly established position with a state employer commencing~~
512 ~~after April 1, 2002:~~

513 ~~a.~~ Any such employee shall, by default, be enrolled in the
514 pension plan at the commencement of employment, and may, by the
515 last business day of the 5th month following the employee's
516 month of hire, elect to participate in the investment plan. The
517 employee's election must be made in writing or by electronic
518 means and must be filed with the third-party administrator. The
519 election to participate in the investment plan is irrevocable,
520 except as provided in paragraph ~~(e)~~~~(g)~~.

521 ~~a.b.~~ If the employee files such election within the
522 prescribed time period, enrollment in the investment plan is
523 effective on the first day of employment. The retirement
524 contributions paid through the month of the employee plan change
525 shall be transferred to the investment program, and, effective
526 the first day of the next month, the employer and employee must
527 pay the applicable contributions based on the employee
528 membership class in the program.

529 ~~b.e.~~ An employee who fails to elect to participate in the
530 investment plan within the prescribed time period is deemed to
531 have elected to retain membership in the pension plan, and the
532 employee's option to elect to participate in the investment plan

533 is forfeited.

534 2.3. With respect to employees who become eligible to
 535 participate in the investment plan pursuant to s.
 536 121.051(2)(c)3. or s. 121.35(3)(i), the employee may elect to
 537 participate in the investment plan in lieu of retaining his or
 538 her membership in the State Community College System Optional
 539 Retirement Program or the State University System Optional
 540 Retirement Program. The election must be made in writing or by
 541 electronic means and must be filed with the third-party
 542 administrator. This election is irrevocable, except as provided
 543 in paragraph ~~(e)~~(g). Upon making such election, the employee
 544 shall be enrolled as a member in the investment plan, the
 545 employee's membership in the Florida Retirement System is
 546 governed by the provisions of this part, and the employee's
 547 participation in the State Community College System Optional
 548 Retirement Program or the State University System Optional
 549 Retirement Program terminates. The employee's enrollment in the
 550 investment plan is effective on the first day of the month for
 551 which a full month's employer and employee contribution is made
 552 to the investment plan.

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

559 ~~(b)1. With respect to an eligible employee who is employed~~
 560 ~~in a regularly established position on September 1, 2002, by a~~

561 ~~district school board employer:~~

562 ~~a. Any such employee may elect to participate in the~~
 563 ~~investment plan in lieu of retaining his or her membership in~~
 564 ~~the pension plan. The election must be made in writing or by~~
 565 ~~electronic means and must be filed with the third-party~~
 566 ~~administrator by November 30, or, in the case of an active~~
 567 ~~employee who is on a leave of absence on July 1, 2002, by the~~
 568 ~~last business day of the 5th month following the month the leave~~
 569 ~~of absence concludes. This election is irrevocable, except as~~
 570 ~~provided in paragraph (g). Upon making such election, the~~
 571 ~~employee shall be enrolled as a member of the investment plan,~~
 572 ~~the employee's membership in the Florida Retirement System is~~
 573 ~~governed by the provisions of this part, and the employee's~~
 574 ~~membership in the pension plan terminates. The employee's~~
 575 ~~enrollment in the investment plan is effective the first day of~~
 576 ~~the month for which a full month's employer contribution is made~~
 577 ~~to the investment program.~~

578 ~~b. Any such employee who fails to elect to participate in~~
 579 ~~the investment plan within the prescribed time period is deemed~~
 580 ~~to have elected to retain membership in the pension plan, and~~
 581 ~~the employee's option to elect to participate in the investment~~
 582 ~~plan is forfeited.~~

583 ~~2. With respect to employees who become eligible to~~
 584 ~~participate in the investment plan by reason of employment in a~~
 585 ~~regularly established position with a district school board~~
 586 ~~employer commencing after July 1, 2002:~~

587 ~~a. Any such employee shall, by default, be enrolled in the~~
 588 ~~pension plan at the commencement of employment, and may, by the~~

589 ~~last business day of the 5th month following the employee's~~
 590 ~~month of hire, elect to participate in the investment plan. The~~
 591 ~~employee's election must be made in writing or by electronic~~
 592 ~~means and must be filed with the third-party administrator. The~~
 593 ~~election to participate in the investment plan is irrevocable,~~
 594 ~~except as provided in paragraph (g).~~

595 ~~b. If the employee files such election within the~~
 596 ~~prescribed time period, enrollment in the investment plan is~~
 597 ~~effective on the first day of employment. The employer~~
 598 ~~retirement contributions paid through the month of the employee~~
 599 ~~plan change shall be transferred to the investment plan, and,~~
 600 ~~effective the first day of the next month, the employer shall~~
 601 ~~pay the applicable contributions based on the employee~~
 602 ~~membership class in the investment plan.~~

603 ~~e. Any such employee who fails to elect to participate in~~
 604 ~~the investment plan within the prescribed time period is deemed~~
 605 ~~to have elected to retain membership in the pension plan, and~~
 606 ~~the employee's option to elect to participate in the investment~~
 607 ~~plan is forfeited.~~

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

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

617 ~~a. Any such employee may elect to participate in the~~
 618 ~~investment plan in lieu of retaining his or her membership in~~
 619 ~~the pension plan. The election must be made in writing or by~~
 620 ~~electronic means and must be filed with the third party~~
 621 ~~administrator by February 28, 2003, or, in the case of an active~~
 622 ~~employee who is on a leave of absence on October 1, 2002, by the~~
 623 ~~last business day of the 5th month following the month the leave~~
 624 ~~of absence concludes. This election is irrevocable, except as~~
 625 ~~provided in paragraph (g). Upon making such election, the~~
 626 ~~employee shall be enrolled as a participant of the investment~~
 627 ~~plan, the employee's membership in the Florida Retirement System~~
 628 ~~is governed by the provisions of this part, and the employee's~~
 629 ~~membership in the pension plan terminates. The employee's~~
 630 ~~enrollment in the investment plan is effective the first day of~~
 631 ~~the month for which a full month's employer contribution is made~~
 632 ~~to the investment plan.~~

633 ~~b. Any such employee who fails to elect to participate in~~
 634 ~~the investment plan within the prescribed time period is deemed~~
 635 ~~to have elected to retain membership in the pension plan, and~~
 636 ~~the employee's option to elect to participate in the investment~~
 637 ~~plan is forfeited.~~

638 ~~2. With respect to employees who become eligible to~~
 639 ~~participate in the investment plan by reason of employment in a~~
 640 ~~regularly established position with a local employer commencing~~
 641 ~~after October 1, 2002:~~

642 ~~a. Any such employee shall, by default, be enrolled in the~~
 643 ~~pension plan at the commencement of employment, and may, by the~~
 644 ~~last business day of the 5th month following the employee's~~

645 ~~month of hire, elect to participate in the investment plan. The~~
 646 ~~employee's election must be made in writing or by electronic~~
 647 ~~means and must be filed with the third-party administrator. The~~
 648 ~~election to participate in the investment plan is irrevocable,~~
 649 ~~except as provided in paragraph (g).~~

650 ~~b. If the employee files such election within the~~
 651 ~~prescribed time period, enrollment in the investment plan is~~
 652 ~~effective on the first day of employment. The employer~~
 653 ~~retirement contributions paid through the month of the employee~~
 654 ~~plan change shall be transferred to the investment plan, and,~~
 655 ~~effective the first day of the next month, the employer shall~~
 656 ~~pay the applicable contributions based on the employee~~
 657 ~~membership class in the investment plan.~~

658 ~~e. Any such employee who fails to elect to participate in~~
 659 ~~the investment plan within the prescribed time period is deemed~~
 660 ~~to have elected to retain membership in the pension plan, and~~
 661 ~~the employee's option to elect to participate in the investment~~
 662 ~~plan is forfeited.~~

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

665 (b)(d) Contributions available for self-direction by a
 666 member who has not selected one or more specific investment
 667 products shall be allocated as prescribed by the state board.
 668 The third-party administrator shall notify the member at least
 669 quarterly that the member should take an affirmative action to
 670 make an asset allocation among the investment products.

671 (c)(e) On or after July 1, 2011, a member of the pension
 672 plan who obtains a refund of employee contributions retains his

673 or her prior plan choice upon return to employment in a
 674 regularly established position with a participating employer.

675 (d)~~(f)~~ A member of the investment plan who takes a
 676 distribution of any contributions from his or her investment
 677 plan account is considered a retiree. A retiree who is initially
 678 reemployed in a regularly established position on or after July
 679 1, 2010, is not eligible to be enrolled in renewed membership.

680 (e)~~(g)~~ After the period during which an eligible employee
 681 initially enrolled before January 1, 2014, had the choice to
 682 elect the pension plan or the investment plan, or the month
 683 following the receipt of the eligible employee's plan election,
 684 if sooner, the employee shall have one opportunity, at the
 685 employee's discretion, to choose to move from the pension plan
 686 to the investment plan or from the investment plan to the
 687 pension plan. Eligible employees may elect to move between plans
 688 only if they are earning service credit in an employer-employee
 689 relationship consistent with s. 121.021(17)(b), excluding leaves
 690 of absence without pay. Effective July 1, 2005, such elections
 691 are effective on the first day of the month following the
 692 receipt of the election by the third-party administrator and are
 693 not subject to the requirements regarding an employer-employee
 694 relationship or receipt of contributions for the eligible
 695 employee in the effective month, except when the election is
 696 received by the third-party administrator. This paragraph is
 697 contingent upon approval by the Internal Revenue Service.

698 1. If the employee chooses to move to the investment plan,
 699 the provisions of subsection (3) govern the transfer.

700 2. If the employee chooses to move to the pension plan,

701 the employee must transfer from his or her investment plan
 702 account, and from other employee moneys as necessary, a sum
 703 representing the present value of that employee's accumulated
 704 benefit obligation immediately following the time of such
 705 movement, determined assuming that attained service equals the
 706 sum of service in the pension plan and service in the investment
 707 plan. Benefit commencement occurs on the first date the employee
 708 is eligible for unreduced benefits, using the discount rate and
 709 other relevant actuarial assumptions that were used to value the
 710 pension plan liabilities in the most recent actuarial valuation.
 711 For any employee who, at the time of the second election,
 712 already maintains an accrued benefit amount in the pension plan,
 713 the then-present value of the accrued benefit is deemed part of
 714 the required transfer amount. The division must ensure that the
 715 transfer sum is prepared using a formula and methodology
 716 certified by an enrolled actuary. A refund of any employee
 717 contributions or additional member payments made which exceed
 718 the employee contributions that would have accrued had the
 719 member remained in the pension plan and not transferred to the
 720 investment plan is not permitted.

721 3. Notwithstanding subparagraph 2., an employee who
 722 chooses to move to the pension plan and who became eligible to
 723 participate in the investment plan by reason of employment in a
 724 regularly established position with a state employer after June
 725 1, 2002; a district school board employer after September 1,
 726 2002; or a local employer after December 1, 2002, must transfer
 727 from his or her investment plan account, and from other employee
 728 moneys as necessary, a sum representing the employee's actuarial

729 accrued liability. A refund of any employee contributions or
 730 additional member ~~participant~~ payments made which exceed the
 731 employee contributions that would have accrued had the member
 732 remained in the pension plan and not transferred to the
 733 investment plan is not permitted.

734 4. An employee's ability to transfer from the pension plan
 735 to the investment plan pursuant to paragraph (a) ~~paragraphs (a)-~~
 736 ~~(d)~~, and the ability of a current employee to have an option to
 737 later transfer back into the pension plan under subparagraph 2.,
 738 shall be deemed a significant system amendment. Pursuant to s.
 739 121.031(4), any resulting unfunded liability arising from actual
 740 original transfers from the pension plan to the investment plan
 741 must be amortized within 30 plan years as a separate unfunded
 742 actuarial base independent of the reserve stabilization
 743 mechanism defined in s. 121.031(3)(f). For the first 25 years, a
 744 direct amortization payment may not be calculated for this base.
 745 During this 25-year period, the separate base shall be used to
 746 offset the impact of employees exercising their second program
 747 election under this paragraph. The actuarial funded status of
 748 the pension plan will not be affected by such second program
 749 elections in any significant manner, after due recognition of
 750 the separate unfunded actuarial base. Following the initial 25-
 751 year period, any remaining balance of the original separate base
 752 shall be amortized over the remaining 5 years of the required
 753 30-year amortization period.

754 5. If the employee chooses to transfer from the investment
 755 plan to the pension plan and retains an excess account balance
 756 in the investment plan after satisfying the buy-in requirements

757 | under this paragraph, the excess may not be distributed until
 758 | the member retires from the pension plan. The excess account
 759 | balance may be rolled over to the pension plan and used to
 760 | purchase service credit or upgrade creditable service in the
 761 | pension plan.

762 | (f)1. All eligible employees, except those eligible to
 763 | withdraw from the system under s. 121.052(3)(d) or s.
 764 | 121.055(1)(b)2., or those eligible for optional retirement
 765 | programs under s. 121.051(1)(a), s. 121.051(2)(c), or s. 121.35,
 766 | initially enrolled on or after January 1, 2014, are compulsory
 767 | members of the investment plan. Employees eligible to withdraw
 768 | from the system under s. 121.052(3)(d) or s. 121.055(1)(b)2.,
 769 | may choose to withdraw from the system or to participate in the
 770 | investment plan as provided in those sections. Employees
 771 | eligible for optional retirement programs under s. 121.051(2)(c)
 772 | or s. 121.35, except as provided in s. 121.051(1)(a), may choose
 773 | to participate in the optional retirement program or the
 774 | investment plan as provided in those sections. Membership in the
 775 | pension plan is not permitted except as provided in s.
 776 | 121.591(2).

777 | 2. Employees initially enrolled on or after January 1,
 778 | 2014, are not permitted to use the election opportunity
 779 | specified in paragraph (e).

780 | 3. The amount of retirement contributions paid by the
 781 | employee and employer, as required under s. 121.72, shall be
 782 | placed in a default fund as designated by the state board, until
 783 | an account is activated in the investment plan, at which time
 784 | the member may move the contributions from the default fund to

785 other funds provided in the investment plan.

786 (5) CONTRIBUTIONS.—

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

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

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

798 3. The employer contribution portion earmarked for
 799 disability benefits, for members initially enrolled before
 800 January 1, 2014, shall be transferred to the Florida Retirement
 801 System Trust Fund.

802 (8) INVESTMENT PLAN ADMINISTRATION.—The investment plan
 803 shall be administered by the state board and affected employers.
 804 The state board may require oaths, by affidavit or otherwise,
 805 and acknowledgments from persons in connection with the
 806 administration of its statutory duties and responsibilities for
 807 the investment plan. An oath, by affidavit or otherwise, may not
 808 be required of a member at the time of enrollment. For members
 809 initially enrolled before January 1, 2014, acknowledgment of an
 810 employee's election to participate in the program shall be no
 811 greater than necessary to confirm the employee's election. The
 812 state board shall adopt rules to carry out its statutory duties

813 with respect to administering the investment plan, including
 814 establishing the roles and responsibilities of affected state,
 815 local government, and education-related employers, the state
 816 board, the department, and third-party contractors. The
 817 department shall adopt rules necessary to administer the
 818 investment plan in coordination with the pension plan and the
 819 disability benefits available under the investment plan.

820 (a)1. The state board shall select and contract with a
 821 third-party administrator to provide administrative services if
 822 those services cannot be competitively and contractually
 823 provided by the division. With the approval of the state board,
 824 the third-party administrator may subcontract to provide
 825 components of the administrative services. As a cost of
 826 administration, the state board may compensate any such
 827 contractor for its services, in accordance with the terms of the
 828 contract, as is deemed necessary or proper by the board. The
 829 third-party administrator may not be an approved provider or be
 830 affiliated with an approved provider.

831 2. These administrative services may include, but are not
 832 limited to, enrollment of eligible employees, collection of
 833 employer and employee contributions, disbursement of
 834 contributions to approved providers in accordance with the
 835 allocation directions of members; services relating to
 836 consolidated billing; individual and collective recordkeeping
 837 and accounting; asset purchase, control, and safekeeping; and
 838 direct disbursement of funds to and from the third-party
 839 administrator, the division, the state board, employers,
 840 members, approved providers, and beneficiaries. This section

841 does not prevent or prohibit a bundled provider from providing
 842 any administrative or customer service, including accounting and
 843 administration of individual member benefits and contributions;
 844 individual member recordkeeping; asset purchase, control, and
 845 safekeeping; direct execution of the member's instructions as to
 846 asset and contribution allocation; calculation of daily net
 847 asset values; direct access to member account information; or
 848 periodic reporting to members, at least quarterly, on account
 849 balances and transactions, if these services are authorized by
 850 the state board as part of the contract.

851 (b)1. The state board shall select and contract with one
 852 or more organizations to provide educational services. With
 853 approval of the state board, the organizations may subcontract
 854 to provide components of the educational services. As a cost of
 855 administration, the state board may compensate any such
 856 contractor for its services in accordance with the terms of the
 857 contract, as is deemed necessary or proper by the board. The
 858 education organization may not be an approved provider or be
 859 affiliated with an approved provider.

860 2. Educational services shall be designed by the state
 861 board and department to assist employers, eligible employees,
 862 members, and beneficiaries in order to maintain compliance with
 863 United States Department of Labor regulations under s. 404(c) of
 864 the Employee Retirement Income Security Act of 1974 and to
 865 assist employees in their choice of pension plan or investment
 866 plan retirement alternatives. Educational services include, but
 867 are not limited to, disseminating educational materials;
 868 providing retirement planning education; explaining the pension

869 plan and the investment plan; and offering financial planning
 870 guidance on matters such as investment diversification,
 871 investment risks, investment costs, and asset allocation. An
 872 approved provider may also provide educational information,
 873 including retirement planning and investment allocation
 874 information concerning its products and services.

875 (c)1. In evaluating and selecting a third-party
 876 administrator, the state board shall establish criteria for
 877 evaluating the relative capabilities and qualifications of each
 878 proposed administrator. In developing such criteria, the state
 879 board shall consider:

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

883 b. The administrator's demonstrated experience in
 884 providing daily valued recordkeeping to defined contribution
 885 programs.

886 c. The administrator's ability and willingness to
 887 coordinate its activities with employers, the state board, and
 888 the division, and to supply to such employers, the board, and
 889 the division the information and data they require, including,
 890 but not limited to, monthly management reports, quarterly member
 891 reports, and ad hoc reports requested by the department or state
 892 board.

893 d. The cost-effectiveness and levels of the administrative
 894 services provided.

895 e. The administrator's ability to interact with the
 896 members, the employers, the state board, the division, and the

897 providers; the means by which members may access account
 898 information, direct investment of contributions, make changes to
 899 their accounts, transfer moneys between available investment
 900 vehicles, and transfer moneys between investment products; and
 901 any fees that apply to such activities.

902 f. Any other factor deemed necessary by the state board.

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

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

910 b. Ability and willingness to coordinate its activities
 911 with the employers, the state board, and the division, and to
 912 supply to such employers, the board, and the division the
 913 information and data they require, including, but not limited
 914 to, reports on educational contacts.

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

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

920 e. Any other factor deemed necessary by the state board.

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

923 (d) The state board shall develop the form and content of
 924 any contracts to be offered under the investment plan. In

925 developing the contracts, the board shall consider:

926 1. The nature and extent of the rights and benefits to be
 927 afforded in relation to the contributions required under the
 928 plan.

929 2. The suitability of the rights and benefits provided and
 930 the interests of employers in the recruitment and retention of
 931 eligible employees.

932 (e)1. The state board may contract for professional
 933 services, including legal, consulting, accounting, and actuarial
 934 services, deemed necessary to implement and administer the
 935 investment plan. The state board may enter into a contract with
 936 one or more vendors to provide low-cost investment advice to
 937 members, supplemental to education provided by the third-party
 938 administrator. All fees under any such contract shall be paid by
 939 those members who choose to use the services of the vendor.

940 2. The department may contract for professional services,
 941 including legal, consulting, accounting, and actuarial services,
 942 deemed necessary to implement and administer the investment plan
 943 in coordination with the pension plan. The department, in
 944 coordination with the state board, may enter into a contract
 945 with the third-party administrator in order to coordinate
 946 services common to the various programs within the Florida
 947 Retirement System.

948 (f) The third-party administrator may not receive direct
 949 or indirect compensation from an approved provider, except as
 950 specifically provided for in the contract with the state board.

951 (g) The state board shall receive and resolve member
 952 complaints against the program, the third-party administrator,

953 or any program vendor or provider; shall resolve any conflict
 954 between the third-party administrator and an approved provider
 955 if such conflict threatens the implementation or administration
 956 of the program or the quality of services to employees; and may
 957 resolve any other conflicts. The third-party administrator shall
 958 retain all member records for at least 5 years for use in
 959 resolving any member conflicts. The state board, the third-party
 960 administrator, or a provider is not required to produce
 961 documentation or an audio recording to justify action taken with
 962 regard to a member if the action occurred 5 or more years before
 963 the complaint is submitted to the state board. It is presumed
 964 that all action taken 5 or more years before the complaint is
 965 submitted was taken at the request of the member and with the
 966 member's full knowledge and consent. To overcome this
 967 presumption, the member must present documentary evidence or an
 968 audio recording demonstrating otherwise.

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

970 (a) The state board shall develop policy and procedures
 971 for selecting, evaluating, and monitoring the performance of
 972 approved providers and investment products under the investment
 973 plan. In accordance with such policy and procedures, the state
 974 board shall designate and contract for a number of investment
 975 products as determined by the board. The board shall also select
 976 one or more bundled providers, each of which may offer multiple
 977 investment options and related services, if such approach is
 978 determined by the board to provide value to the members
 979 otherwise not available through individual investment products.
 980 Each approved bundled provider may offer investment options that

981 provide members with the opportunity to invest in each of the
 982 following asset classes, to be composed of individual options
 983 that represent a single asset class or a combination thereof:
 984 money markets, United States fixed income, United States
 985 equities, and foreign stock. The state board shall review and
 986 manage all educational materials, contract terms, fee schedules,
 987 and other aspects of the approved provider relationships to
 988 ensure that no provider is unduly favored or penalized by virtue
 989 of its status within the investment plan. Additionally, the
 990 state board, consistent with its fiduciary responsibilities,
 991 shall develop one or more investment products to be offered in
 992 the investment plan.

993 (h) A self-directed brokerage account shall be offered as
 994 a service to investment plan members.

995 1. Notwithstanding any other provision of this section,
 996 the state board shall select a provider to offer investment plan
 997 members additional investment alternatives by providing a self-
 998 directed brokerage account.

999 2. The state board shall contract with a provider to offer
 1000 a self-directed brokerage account. In selecting the provider,
 1001 the state board shall consider the following:

1002 a. Financial strength and stability as evidenced by the
 1003 highest ratings assigned by nationally recognized rating
 1004 services when comparing proposed providers that are so rated.

1005 b. Reasonableness of fees compared to other providers
 1006 taking into consideration the quantity and quality of services
 1007 being offered.

1008 c. Compliance with the Internal Revenue Code and all

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1009 applicable federal and state securities laws.

1010 d. Available methods for members to interact with the
 1011 provider and the means by which members may access account
 1012 information, direct investment of funds, transfer funds, and
 1013 receive funds prospectuses and related investment materials as
 1014 required by state and federal regulations.

1015 e. The ability to provide prompt, efficient, and accurate
 1016 responses to member directions, as well as providing
 1017 confirmations and quarterly account statements in a timely
 1018 fashion.

1019 f. The process by which assets are invested, as well as
 1020 any waiting periods when monies are transferred.

1021 g. Organizational factors, including, but not limited to,
 1022 financial solvency, organizational depth, and experience in
 1023 providing self-directed brokerage account services to public
 1024 defined contribution plans.

1025 3. The provider of the self-directed brokerage account
 1026 shall:

1027 a. Make the self-directed brokerage account available
 1028 under the most beneficial terms available to any customer.

1029 b. Agree not to sell or distribute member lists generated
 1030 through services rendered to the investment plan.

1031 c. Not be a bundled provider.

1032 d. Provide for an education component that is available in
 1033 multimedia formats and that provides impartial and balanced
 1034 information about investment options and fees associated with
 1035 participation in the self-directed brokerage account.

1036 4. The provider, as well as any of its related entities,

1037 may not offer any proprietary products as investment
 1038 alternatives in the self-directed brokerage account.

1039 5. The state board shall monitor the selected provider to
 1040 ensure continued compliance with established selection criteria,
 1041 board policy and procedures, state and federal regulations, and
 1042 any contractual provisions.

1043 6. The provider shall ensure that a member opening a self-
 1044 directed brokerage account is provided a quarterly statement
 1045 that details member investments in the self-directed brokerage
 1046 account. The statement shall be in lieu of, and satisfy the
 1047 requirements of, subsection (11) with respect to the member
 1048 investments in the self-directed brokerage account. The provider
 1049 shall include in the statement the following details:

- 1050 a. Account investment options.
- 1051 b. The market value of the account at the close of the
 1052 current quarter and the previous quarter.
- 1053 c. Account gains and losses.
- 1054 d. Transfers into and out of the account.
- 1055 e. Any fees, charges, penalties, and deductions that apply
 1056 to the account.

1057 7. The self-directed brokerage account may include the
 1058 following securities as investment alternatives:

- 1059 a. Stocks listed on a Securities and Exchange Commission
 1060 regulated national exchange.
- 1061 b. Exchange traded funds.
- 1062 c. Mutual funds.

1063 8. The self-directed brokerage account may not include the
 1064 following as investment alternatives:

- 1065 a. Illiquid investments.
- 1066 b. Over-the-Counter Bulletin Board securities.
- 1067 c. Pink Sheet securities.
- 1068 d. Leveraged exchange traded funds.
- 1069 e. Direct ownership of foreign securities.
- 1070 f. Derivatives, including, but not limited to, futures and
- 1071 options contracts on securities, market indexes, and
- 1072 commodities.
- 1073 g. Buying or trading on margin.
- 1074 h. Investment plan products.
- 1075 i. Any investment that would jeopardize the investment
- 1076 plan's tax qualified status.
- 1077 9. A member may participate in the self-directed
- 1078 brokerage account if the member:
- 1079 a. Maintains a minimum balance of \$5,000 in the products
- 1080 offered under the investment plan.
- 1081 b. Makes a minimum initial transfer of funds into the
- 1082 self-directed brokerage account of \$1,000.
- 1083 c. Makes subsequent transfers of funds into the self-
- 1084 directed brokerage account in amounts of \$1,000 or greater.
- 1085 d. Pays all trading fees, commissions, administrative
- 1086 fees, and any other expenses associated with participating in
- 1087 the self-directed brokerage account from the funds in the self-
- 1088 directed brokerage account.
- 1089 e. Does not violate any trading restrictions established
- 1090 by the provider, the investment plan, or state or federal law.
- 1091 10. Employer and employee contributions shall be initially
- 1092 deposited into investment plan products and may be transferred

1093 to the self-directed brokerage account.

1094 11. Distributions are not permissible directly from assets
 1095 in the self-directed brokerage account. Assets must first be
 1096 transferred to investment plan products. A distribution may be
 1097 requested after the transfer is completed and all investment
 1098 plan distribution requirements are met.

1099 12. The state board must notify members that:

1100 a. The state board is not responsible for managing the
 1101 self-directed brokerage account beyond administrative
 1102 requirements as established between the state board and the
 1103 provider of the self-directed brokerage account.

1104 b. Investment alternatives available through the self-
 1105 directed brokerage account have not been subjected to any
 1106 selection process, are not monitored by the state board, require
 1107 investment expertise to prudently buy, manage, or dispose of,
 1108 and have a risk of substantial loss.

1109 c. The member is responsible for all administrative,
 1110 investment, and trading fees associated with participating in
 1111 the self-directed brokerage account.

1112 (10) EDUCATION COMPONENT.—

1113 (a) The state board, in coordination with the department,
 1114 shall provide for an education component for eligible employees
 1115 ~~system members~~ in a manner consistent with the provisions of
 1116 this subsection ~~section~~. ~~The education component must be~~
 1117 ~~available to eligible employees at least 90 days prior to the~~
 1118 ~~beginning date of the election period for the employees of the~~
 1119 ~~respective types of employers.~~

1120 (b) The education component must provide system members

1121 with impartial and balanced information about plan choices for
 1122 members initially enrolled before January 1, 2014. The education
 1123 component must involve multimedia formats. Program comparisons
 1124 must, to the greatest extent possible, be based upon the
 1125 retirement income that different retirement programs may provide
 1126 to the member. The state board shall monitor the performance of
 1127 the contract to ensure that the program is conducted in
 1128 accordance with the contract, applicable law, and the rules of
 1129 the state board.

1130 (c) The state board, in coordination with the department,
 1131 shall provide for an initial and ongoing transfer education
 1132 component to provide system members initially enrolled before
 1133 January 1, 2014, with information necessary to make informed
 1134 plan choice decisions. The transfer education component must
 1135 include, but is not limited to, information on:

1136 1. The amount of money available to a member to transfer
 1137 to the defined contribution program.

1138 2. The features of and differences between the pension
 1139 plan and the defined contribution program, both generally and
 1140 specifically, as those differences may affect the member.

1141 3. The expected benefit available if the member were to
 1142 retire under each of the retirement programs, based on
 1143 appropriate alternative sets of assumptions.

1144 4. The rate of return from investments in the defined
 1145 contribution program and the period of time over which such rate
 1146 of return must be achieved to equal or exceed the expected
 1147 monthly benefit payable to the member under the pension plan.

1148 5. The historical rates of return for the investment

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1149 alternatives available in the defined contribution programs.

1150 6. The benefits and historical rates of return on
 1151 investments available in a typical deferred compensation plan or
 1152 a typical plan under s. 403(b) of the Internal Revenue Code for
 1153 which the employee may be eligible.

1154 7. The program choices available to employees of the State
 1155 University System and the comparative benefits of each available
 1156 program, if applicable.

1157 8. Payout options available in each of the retirement
 1158 programs.

1159 ~~(h) Pursuant to subsection (8), all Florida Retirement~~
 1160 ~~System employers have an obligation to regularly communicate the~~
 1161 ~~existence of the two Florida Retirement System plans and the~~
 1162 ~~plan choice in the natural course of administering their~~
 1163 ~~personnel functions, using the educational materials supplied by~~
 1164 ~~the state board and the Department of Management Services.~~

1165 (15) STATEMENT OF FIDUCIARY STANDARDS AND
 1166 RESPONSIBILITIES.—

1167 (a) Investment of investment ~~defined contribution~~ plan
 1168 assets shall be made for the sole interest and exclusive purpose
 1169 of providing benefits to members and beneficiaries and defraying
 1170 reasonable expenses of administering the plan. The program's
 1171 assets shall be invested on behalf of the program members with
 1172 the care, skill, and diligence that a prudent person acting in a
 1173 like manner would undertake. The performance of the investment
 1174 duties set forth in this paragraph shall comply with the
 1175 fiduciary standards set forth in the Employee Retirement Income
 1176 Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). In case

1177 of conflict with other provisions of law authorizing
 1178 investments, the investment and fiduciary standards set forth in
 1179 this subsection shall prevail.

1180 (c) Subparagraph (8)(b)2. and paragraph (b) incorporate
 1181 the federal law concept of participant control, established by
 1182 regulations of the United States Department of Labor under s.
 1183 404(c) of the Employee Retirement Income Security Act of 1974
 1184 (ERISA). The purpose of this paragraph is to assist employers
 1185 and the state board in maintaining compliance with s. 404(c),
 1186 while avoiding unnecessary costs and eroding member benefits
 1187 under the investment plan. Pursuant to 29 C.F.R. s. 2550.404a-
 1188 5(d)(4) ~~2550.404e-1(b)(2)(i)(B)(1)(viii)~~, the state board or its
 1189 designated agents shall deliver to members of the investment
 1190 plan a copy of the prospectus most recently provided to the
 1191 plan, ~~and, pursuant to 29 C.F.R. s. 2550.404e-~~
 1192 ~~1(b)(2)(i)(B)(2)(ii), shall provide such members an opportunity~~
 1193 ~~to obtain this information,~~ except that:

1194 1. The requirement to deliver a prospectus shall be
 1195 satisfied by delivery of a fund profile or summary profile that
 1196 contains the information that would be included in a summary
 1197 prospectus as described by Rule 498 under the Securities Act of
 1198 1933, 17 C.F.R. s. 230.498. If the transaction fees, expense
 1199 information or other information provided by a mutual fund in
 1200 the prospectus does not reflect terms negotiated by the state
 1201 board or its designated agents, the requirement is satisfied by
 1202 delivery of a separate document described by Rule 498
 1203 substituting accurate information; and

1204 2. Delivery shall be effected if delivery is through

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1205 | electronic means and the following standards are satisfied:

1206 | a. Electronically-delivered documents are prepared and
 1207 | provided consistent with style, format, and content requirements
 1208 | applicable to printed documents;

1209 | b. Each member is provided timely and adequate notice of
 1210 | the documents that are to be delivered, and their significance,
 1211 | and of the member's right to obtain a paper copy of such
 1212 | documents free of charge;

1213 | c. Members have adequate access to the electronic
 1214 | documents, at locations such as their worksites or public
 1215 | facilities, and have the ability to convert the documents to
 1216 | paper free of charge by the state board, and the board or its
 1217 | designated agents take appropriate and reasonable measures to
 1218 | ensure that the system for furnishing electronic documents
 1219 | results in actual receipt. Members have provided consent to
 1220 | receive information in electronic format, which consent may be
 1221 | revoked; and

1222 | d. The state board, or its designated agent, actually
 1223 | provides paper copies of the documents free of charge, upon
 1224 | request.

1225 | 3. The state board is not required to deliver a prospectus
 1226 | or other information for the underlying investments available
 1227 | through the self-directed brokerage account authorized by
 1228 | paragraph (9) (h).

1229 | (16) DISABILITY BENEFITS.—For any member of the investment
 1230 | plan initially enrolled in the Florida Retirement System before
 1231 | January 1, 2014, who becomes totally and permanently disabled,
 1232 | benefits must be paid in accordance with the provisions of s.

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1233 121.591. Investment plan members initially enrolled in the
 1234 Florida Retirement System on or after January 1, 2014, are not
 1235 entitled to disability benefits as provided by this chapter.

1236 Section 6. Subsection (2) of section 121.591, Florida
 1237 Statutes, is amended to read:

1238 121.591 Payment of benefits.—Benefits may not be paid
 1239 under the Florida Retirement System Investment Plan unless the
 1240 member has terminated employment as provided in s.

1241 121.021(39)(a) or is deceased and a proper application has been
 1242 filed as prescribed by the state board or the department.

1243 Benefits, including employee contributions, are not payable
 1244 under the investment plan for employee hardships, unforeseeable
 1245 emergencies, loans, medical expenses, educational expenses,
 1246 purchase of a principal residence, payments necessary to prevent
 1247 eviction or foreclosure on an employee's principal residence, or
 1248 any other reason except a requested distribution for retirement,
 1249 a mandatory de minimis distribution authorized by the
 1250 administrator, or a required minimum distribution provided
 1251 pursuant to the Internal Revenue Code. The state board or
 1252 department, as appropriate, may cancel an application for
 1253 retirement benefits if the member or beneficiary fails to timely
 1254 provide the information and documents required by this chapter
 1255 and the rules of the state board and department. In accordance
 1256 with their respective responsibilities, the state board and the
 1257 department shall adopt rules establishing procedures for
 1258 application for retirement benefits and for the cancellation of
 1259 such application if the required information or documents are
 1260 not received. The state board and the department, as

1261 appropriate, are authorized to cash out a de minimis account of
 1262 a member who has been terminated from Florida Retirement System
 1263 covered employment for a minimum of 6 calendar months. A de
 1264 minimis account is an account containing employer and employee
 1265 contributions and accumulated earnings of not more than \$5,000
 1266 made under the provisions of this chapter. Such cash-out must be
 1267 a complete lump-sum liquidation of the account balance, subject
 1268 to the provisions of the Internal Revenue Code, or a lump-sum
 1269 direct rollover distribution paid directly to the custodian of
 1270 an eligible retirement plan, as defined by the Internal Revenue
 1271 Code, on behalf of the member. Any nonvested accumulations and
 1272 associated service credit, including amounts transferred to the
 1273 suspense account of the Florida Retirement System Investment
 1274 Plan Trust Fund authorized under s. 121.4501(6), shall be
 1275 forfeited upon payment of any vested benefit to a member or
 1276 beneficiary, except for de minimis distributions or minimum
 1277 required distributions as provided under this section. If any
 1278 financial instrument issued for the payment of retirement
 1279 benefits under this section is not presented for payment within
 1280 180 days after the last day of the month in which it was
 1281 originally issued, the third-party administrator or other duly
 1282 authorized agent of the state board shall cancel the instrument
 1283 and credit the amount of the instrument to the suspense account
 1284 of the Florida Retirement System Investment Plan Trust Fund
 1285 authorized under s. 121.4501(6). Any amounts transferred to the
 1286 suspense account are payable upon a proper application, not to
 1287 include earnings thereon, as provided in this section, within 10
 1288 years after the last day of the month in which the instrument

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1289 was originally issued, after which time such amounts and any
 1290 earnings attributable to employer contributions shall be
 1291 forfeited. Any forfeited amounts are assets of the trust fund
 1292 and are not subject to chapter 717.

1293 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided
 1294 under this subsection are payable in lieu of the benefits that
 1295 would otherwise be payable under the provisions of subsection
 1296 (1) for investment plan members initially enrolled in the
 1297 Florida Retirement System before January 1, 2014. Such benefits
 1298 for eligible members must be funded from employer contributions
 1299 made under s. 121.571, transferred employee contributions and
 1300 funds accumulated pursuant to paragraph (a), and interest and
 1301 earnings thereon. Investment plan members initially enrolled in
 1302 the Florida Retirement System on or after January 1, 2014, are
 1303 not eligible for disability benefits as provided by this
 1304 section.

1305 (a) Transfer of funds.—To qualify to receive monthly
 1306 disability benefits under this subsection:

1307 1. All moneys accumulated in the member's account,
 1308 including vested and nonvested accumulations as described in s.
 1309 121.4501(6), must be transferred from such individual accounts
 1310 to the division for deposit in the disability account of the
 1311 Florida Retirement System Trust Fund. Such moneys must be
 1312 accounted for separately. Earnings must be credited on an annual
 1313 basis for amounts held in the disability accounts of the Florida
 1314 Retirement System Trust Fund based on actual earnings of the
 1315 trust fund.

1316 2. If the member has retained retirement credit earned

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1317 | under the pension plan as provided in s. 121.4501(3), a sum
 1318 | representing the actuarial present value of such credit within
 1319 | the Florida Retirement System Trust Fund shall be reassigned by
 1320 | the division from the pension plan to the disability program as
 1321 | implemented under this subsection and shall be deposited in the
 1322 | disability account of the trust fund. Such moneys must be
 1323 | accounted for separately.

1324 | (b) Disability retirement; entitlement.—

1325 | 1. An eligible ~~A~~ member of the investment plan who becomes
 1326 | totally and permanently disabled, as defined in paragraph (d),
 1327 | after completing 8 years of creditable service, or an eligible ~~a~~
 1328 | member who becomes totally and permanently disabled in the line
 1329 | of duty regardless of length of service, is entitled to a
 1330 | monthly disability benefit.

1331 | 2. In order for service to apply toward the 8 years of
 1332 | creditable service required for regular disability benefits, or
 1333 | toward the creditable service used in calculating a service-
 1334 | based benefit as provided under paragraph (g), the service must
 1335 | be creditable service as described below:

1336 | a. The member's period of service under the investment
 1337 | plan shall be considered creditable service, except as provided
 1338 | in subparagraph d.

1339 | b. If the member has elected to retain credit for service
 1340 | under the pension plan as provided under s. 121.4501(3), all
 1341 | such service shall be considered creditable service.

1342 | c. If the member elects to transfer to his or her member
 1343 | accounts a sum representing the present value of his or her
 1344 | retirement credit under the pension plan as provided under s.

1345 121.4501(3), the period of service under the pension plan
 1346 represented in the present value amounts transferred shall be
 1347 considered creditable service, except as provided in
 1348 subparagraph d.

1349 d. If a member has terminated employment and has taken
 1350 distribution of his or her funds as provided in subsection (1),
 1351 all creditable service represented by such distributed funds is
 1352 forfeited for purposes of this subsection.

1353 (c) Disability retirement effective date.—The effective
 1354 retirement date for an eligible ~~a~~ member who applies and is
 1355 approved for disability retirement shall be established as
 1356 provided under s. 121.091(4)(a)2. and 3.

1357 (d) Total and permanent disability.—An eligible ~~A~~ member
 1358 shall be considered totally and permanently disabled if, in the
 1359 opinion of the division, he or she is prevented, by reason of a
 1360 medically determinable physical or mental impairment, from
 1361 rendering useful and efficient service as an officer or
 1362 employee.

1363 (e) Proof of disability.— Before approving payment of any
 1364 disability retirement benefit, the division shall require proof
 1365 that the member is totally and permanently disabled as provided
 1366 under s. 121.091(4)(c).

1367 (f) Disability retirement benefit.—Upon the disability
 1368 retirement of a member under this subsection, the member shall
 1369 receive a monthly benefit that begins accruing on the first day
 1370 of the month of disability retirement, as approved by the
 1371 division, and is payable on the last day of that month and each
 1372 month thereafter during his or her lifetime and continued

1373 disability. All disability benefits must be paid out of the
 1374 disability account of the Florida Retirement System Trust Fund
 1375 established under this subsection.

1376 (g) Computation of disability retirement benefit.—The
 1377 amount of each monthly payment must be calculated as provided
 1378 under s. 121.091(4)(f). Creditable service under both the
 1379 pension plan and the investment plan shall be applicable as
 1380 provided under paragraph (b).

1381 (h) Reapplication.—A member whose initial application for
 1382 disability retirement is denied may reapply for disability
 1383 benefits as provided in s. 121.091(4)(g).

1384 (i) Membership.—Upon approval of a member's application
 1385 for disability benefits, the member shall be transferred to the
 1386 pension plan, effective upon his or her disability retirement
 1387 effective date.

1388 (j) Option to cancel.—A member whose application for
 1389 disability benefits is approved may cancel the application if
 1390 the cancellation request is received by the division before a
 1391 disability retirement warrant has been deposited, cashed, or
 1392 received by direct deposit. Upon cancellation:

- 1393 1. The member's transfer to the pension plan under
- 1394 paragraph (i) shall be nullified;
- 1395 2. The member shall be retroactively reinstated in the
- 1396 investment plan without hiatus;
- 1397 3. All funds transferred to the Florida Retirement System
- 1398 Trust Fund under paragraph (a) must be returned to the member
- 1399 accounts from which the funds were drawn; and
- 1400 4. The member may elect to receive the benefit payable

1401 under subsection (1) in lieu of disability benefits.

1402 (k) Recovery from disability.—

1403 1. The division may require periodic reexaminations at the
 1404 expense of the disability program account of the Florida
 1405 Retirement System Trust Fund. Except as provided in subparagraph
 1406 2., all other matters relating to recovery from disability shall
 1407 be as provided under s. 121.091(4)(h).

1408 2. Upon recovery from disability, the recipient of
 1409 disability retirement benefits under this subsection shall be a
 1410 compulsory member of the investment plan. The net difference
 1411 between the recipient's original account balance transferred to
 1412 the Florida Retirement System Trust Fund, including earnings and
 1413 total disability benefits paid to such recipient, if any, shall
 1414 be determined as provided in sub-subparagraph a.

1415 a. An amount equal to the total benefits paid shall be
 1416 subtracted from that portion of the transferred account balance
 1417 consisting of vested accumulations as described under s.
 1418 121.4501(6), if any, and an amount equal to the remainder of
 1419 benefit amounts paid, if any, shall be subtracted from any
 1420 remaining nonvested accumulations.

1421 b. Amounts subtracted under sub-subparagraph a. must be
 1422 retained within the disability account of the Florida Retirement
 1423 System Trust Fund. Any remaining account balance shall be
 1424 transferred to the third-party administrator for disposition as
 1425 provided under sub-subparagraph c. or sub-subparagraph d., as
 1426 appropriate.

1427 c. If the recipient returns to covered employment,
 1428 transferred amounts must be deposited in individual accounts

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1429 under the investment plan, as directed by the member. Vested and
 1430 nonvested amounts shall be accounted for separately as provided
 1431 in s. 121.4501(6).

1432 d. If the recipient fails to return to covered employment
 1433 upon recovery from disability:

1434 (I) Any remaining vested amount must be deposited in
 1435 individual accounts under the investment plan, as directed by
 1436 the member, and is payable as provided in subsection (1).

1437 (II) Any remaining nonvested amount must be held in a
 1438 suspense account and is forfeitable after 5 years as provided in
 1439 s. 121.4501(6).

1440 3. If present value was reassigned from the pension plan
 1441 to the disability program as provided under subparagraph (a)2.,
 1442 the full present value amount must be returned to the defined
 1443 benefit account within the Florida Retirement System Trust Fund
 1444 and the member's associated retirement credit under the pension
 1445 plan must be reinstated in full. Any benefit based upon such
 1446 credit must be calculated as provided in s. 121.091(4)(h)1.

1447 (l) Nonadmissible causes of disability.—A member is not
 1448 entitled to a disability retirement benefit if the disability
 1449 results from any injury or disease as described in s.
 1450 121.091(4)(i).

1451 (m) Disability retirement of justice or judge by order of
 1452 Supreme Court.—

1453 1. If an eligible ~~a~~ member is a justice of the Supreme
 1454 Court, judge of a district court of appeal, circuit judge, or
 1455 judge of a county court who has served for the years equal to,
 1456 or greater than, the vesting requirement in s. 121.021(45) as an

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1457 | elected constitutional judicial officer, including service as a
 1458 | judicial officer in any court abolished pursuant to Art. V of
 1459 | the State Constitution, and who is retired for disability
 1460 | pursuant to s. 12, Art. V of the State Constitution, the
 1461 | member's Option 1 monthly disability benefit amount as provided
 1462 | in s. 121.091(6)(a)1. shall be two-thirds of his or her monthly
 1463 | compensation as of the member's disability retirement date. The
 1464 | member may alternatively elect to receive an actuarially
 1465 | adjusted disability retirement benefit under any other option as
 1466 | provided in s. 121.091(6)(a) or to receive the normal benefit
 1467 | payable under subsection (1).

1468 | 2. If any justice or judge who is a member of the
 1469 | investment plan is retired for disability pursuant to s. 12,
 1470 | Art. V of the State Constitution and elects to receive a monthly
 1471 | disability benefit under the provisions of this paragraph:

1472 | a. Any present value amount that was transferred to his or
 1473 | her investment plan account and all employer and employee
 1474 | contributions made to such account on his or her behalf, plus
 1475 | interest and earnings thereon, must be transferred to and
 1476 | deposited in the disability account of the Florida Retirement
 1477 | System Trust Fund; and

1478 | b. The monthly disability benefits payable under this
 1479 | paragraph shall be paid from the disability account of the
 1480 | Florida Retirement System Trust Fund.

1481 | (n) Death of retiree or beneficiary.—Upon the death of a
 1482 | disabled retiree or beneficiary of the retiree who is receiving
 1483 | monthly disability benefits under this subsection, the monthly
 1484 | benefits shall be paid through the last day of the month of

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1485 death and shall terminate, or be adjusted, if applicable, as of
 1486 that date in accordance with the optional form of benefit
 1487 selected at the time of retirement. The department may adopt
 1488 rules necessary to administer this paragraph.

1489 Section 7. Subsections (4) and (5) of section 121.71,
 1490 Florida Statutes, are amended to read:

1491 121.71 Uniform rates; process; calculations; levy.—

1492 (4) Required employer retirement contribution rates for
 1493 each membership class and subclass of the Florida Retirement
 1494 System for both retirement plans are as follows:

1495

Membership Class	Percentage of Gross Compensation, Effective July 1, <u>2013</u> 2012	Percentage of Gross Compensation, Effective July 1, <u>2014</u> 2013
1496 Regular Class	<u>X.XX%</u> 3.55%	<u>X.XX%</u> 3.55%
1497 Special Risk Class	<u>X.XX%</u> 11.01%	<u>X.XX%</u> 11.01%
1498 Special Risk Administrative Support Class	<u>X.XX%</u> 3.94%	<u>X.XX%</u> 3.94%

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1501	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>X.XX%</u> 6.51%	<u>X.XX%</u> 6.51%
1502	Elected Officers' Class— Justices, Judges	<u>X.XX%</u> 10.02%	<u>X.XX%</u> 10.02%
1503	Elected Officers' Class— County Elected Officers	<u>X.XX%</u> 8.36%	<u>X.XX%</u> 8.36%
1504	Senior Management Class	<u>X.XX%</u> 4.84%	<u>X.XX%</u> 4.84%
1505	DROP	<u>X.XX%</u> 4.33%	<u>X.XX%</u> 4.33%
1506	(5) In order to address unfunded actuarial liabilities of		
1507	the system, the required employer retirement contribution rates		
1508	for each membership class and subclass of the Florida Retirement		
1509	System for both retirement plans are as follows:		
1510			
		Percentage of	Percentage of
		Gross	Gross
		Compensation,	Compensation,
		Effective	Effective
		July 1, <u>2013</u>	July 1, <u>2014</u>
	Membership Class	<u>2012</u>	<u>2013</u>

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1511			
1512	Regular Class	<u>X.XX%</u> 0.49%	<u>X.XX%</u> 2.02%
1513	Special Risk Class	<u>X.XX%</u> 2.75%	<u>X.XX%</u> 7.03%
1514	Special Risk Administrative Support Class	<u>X.XX%</u> 0.83%	<u>X.XX%</u> 27.04%
1515	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>X.XX%</u> 0.88%	<u>X.XX%</u> 27.18%
1516	Elected Officers' Class— Justices, Judges	<u>X.XX%</u> 0.77%	<u>X.XX%</u> 16.38%
1517	Elected Officers' Class— County Elected Officers	<u>X.XX%</u> 0.73%	<u>X.XX%</u> 23.01%
1518	Senior Management Service Class	<u>X.XX%</u> 0.32%	<u>X.XX%</u> 11.25%
1519	DROP	<u>X.XX%</u> 0.00%	<u>X.XX%</u> 6.21%

1520

1521 Section 8. Section 238.072, Florida Statutes, is amended
 1522 to read:

1523 238.072 Special service provisions for extension
 1524 personnel.—All state and county cooperative extension personnel
 1525 holding appointments by the United States Department of
 1526 Agriculture for extension work in agriculture and home economics
 1527 in this state who are joint representatives of the University of
 1528 Florida and the United States Department of Agriculture, as
 1529 provided in s. 121.051(8) ~~121.051(7)~~, who are members of the
 1530 Teachers' Retirement System, chapter 238, and who are prohibited
 1531 from transferring to and participating in the Florida Retirement
 1532 System, chapter 121, may retire with full benefits upon
 1533 completion of 30 years of creditable service and shall be
 1534 considered to have attained normal retirement age under this
 1535 chapter, any law to the contrary notwithstanding. In order to
 1536 comply with the provisions of s. 14, Art. X of the State
 1537 Constitution, any liability accruing to the Florida Retirement
 1538 System Trust Fund as a result of the provisions of this section
 1539 shall be paid on an annual basis from the General Revenue Fund.

1540 Section 9. Subsection (11) of section 413.051, Florida
 1541 Statutes, is amended to read:

1542 413.051 Eligible blind persons; operation of vending
 1543 stands.—

1544 (11) Effective July 1, 1996, blind licensees who remain
 1545 members of the Florida Retirement System pursuant to s.
 1546 121.051(7)(b)1. ~~121.051(6)(b)1.~~ shall pay any unappropriated
 1547 retirement costs from their net profits or from program income.

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1548 Within 30 days after the effective date of this act, each blind
 1549 licensee who is eligible to maintain membership in the Florida
 1550 Retirement System under s. 121.051(7)(b)1. ~~121.051(6)(b)1.~~, but
 1551 who elects to withdraw from the system as provided in s.
 1552 121.051(7)(b)3. ~~121.051(6)(b)3.~~, must, on or before July 31,
 1553 1996, notify the Division of Blind Services and the Department
 1554 of Management Services in writing of his or her election to
 1555 withdraw. Failure to timely notify the divisions shall be deemed
 1556 a decision to remain a compulsory member of the Florida
 1557 Retirement System. However, if, at any time after July 1, 1996,
 1558 sufficient funds are not paid by a blind licensee to cover the
 1559 required contribution to the Florida Retirement System, that
 1560 blind licensee shall become ineligible to participate in the
 1561 Florida Retirement System on the last day of the first month for
 1562 which no contribution is made or the amount contributed is
 1563 insufficient to cover the required contribution. For any blind
 1564 licensee who becomes ineligible to participate in the Florida
 1565 Retirement System as described in this subsection, no creditable
 1566 service shall be earned under the Florida Retirement System for
 1567 any period following the month that retirement contributions
 1568 ceased to be reported. However, any such person may participate
 1569 in the Florida Retirement System in the future if employed by a
 1570 participating employer in a covered position.

1571 Section 10. The Legislature finds that a proper and
 1572 legitimate state purpose is served when employees and retirees
 1573 of the state and its political subdivisions, and the dependents,
 1574 survivors, and beneficiaries of such employees and retirees, are
 1575 extended the basic protections afforded by governmental

1576 retirement systems. These persons must be provided benefits that
 1577 are fair and adequate and that are managed, administered, and
 1578 funded in an actuarially sound manner, as required by s. 14,
 1579 Article X of the State Constitution and part VII of chapter 112,
 1580 Florida Statutes. Therefore, the Legislature determines and
 1581 declares that this act fulfills an important state interest.

1582 Section 11. (1) Effective upon this act becoming a law,
 1583 the State Board of Administration and the Department of
 1584 Management Services shall request, as soon as practicable, a
 1585 determination letter from the United States Internal Revenue
 1586 Service. If the Internal Revenue Service refuses to act upon a
 1587 request for a determination letter, then a legal opinion from a
 1588 qualified tax attorney or firm may be substituted for such
 1589 letter.

1590 (2) If the board or the department receives notification
 1591 from the United States Internal Revenue Service that this act or
 1592 any portion of this act will cause the Florida Retirement
 1593 System, or a portion thereof, to be disqualified for tax
 1594 purposes under the Internal Revenue Code, then the portion that
 1595 will cause the disqualification does not apply. Upon such
 1596 notice, the state board and the department shall notify the
 1597 presiding officers of the Legislature.

1598 Section 12. Except as otherwise expressly provided in this
 1599 act and except for this section, which shall take effect upon
 1600 this act becoming a law, this act shall take effect July 1,
 1601 2013.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Appropriations Committee
2 Representative Brodeur offered the following:

Amendment (with title amendment)

5 Remove lines 1489-1520 and insert:

6 Section 7. (1) Effective January 1, 2014, in order to
7 fund the benefit changes provided in this act, the required
8 employer contribution rates for the unfunded actuarial liability
9 of the Florida Retirement System established in section
10 121.71(5), Florida Statute, shall be adjusted as follows:

11 (a) The Elected Officers' Class - Legislators, Governor,
12 Lt. Governor, Cabinet Officers, State Attorneys, and Public
13 Defenders shall be increased by .02 percentage points;

14 (b) The Elected Officers' Class - County Elected Officers
15 shall be increased by .02 percentage points;

16 (c) The Senior Management Service Class shall be decreased
17 by .01 percentage point.

18 (2) The adjustments provided in subsection (1) shall be in
19 addition to all other changes to such contribution rates which
20 may be enacted into law to take effect on July 1, 2013, and July

Amendment No. 1

21 1, 2014. The Division of Law Revision and Information is
22 requested to adjust accordingly the contribution rates provided
23 in section 121.71, Florida Statutes.
24
25
26

27 -----
28 **T I T L E A M E N D M E N T**

29 Remove lines 54-57 and insert:

30 members; adjusting the required employer contribution rates of
31 the Florida Retirement System for select classes; requesting the
32 Division of Law Revision and Information to adjust contribution
33 rates set forth in s. 121.071, F.S.; amending ss. 238.072 and
34

Impact of Pension Reform (HB 7011) - 30 Year Outlook*
 (Effective January 1, 2014)



Projected Annual Savings (Cost) - millions

Fiscal Year/ Employer	State (GR/TF)	School Boards	Higher Education	Local Government	Total State-wide
13-14	-	-	-	-	-
14-15	(0.6)	(0.1)	-	(2.0)	(2.7)
15-16	1.8	7.1	1.5	2.5	12.9
23-24	52.7	136.6	42.1	96.2	327.6
33-34	339.0	878.6	270.8	618.7	2,107.1
42-43	1,463.8	3,758.9	1,420.8	3,189.1	9,832.6

* Impact developed by applying costs to the rates determined in the Milliman actuarial analysis dated March 1, 2013. It is acknowledged out year estimates cannot account for intervening variables and variations in assumptions, such as change in investment strategy and earnings. However, compared to current law these calculations represent the theoretical savings.