



Government Operations Subcommittee

**Thursday, February 7, 2013
9:00 AM
Webster Hall (212 Knott)**

**Will Weatherford
Speaker**

**Jason T. Brodeur
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Government Operations Subcommittee

Start Date and Time: Thursday, February 07, 2013 09:00 am

End Date and Time: Thursday, February 07, 2013 01:00 pm

Location: Webster Hall (212 Knott)

Duration: 4.00 hrs

Consideration of the following proposed committee bill(s):

PCB GVOPS 13-01 -- Florida Retirement System


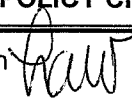
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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GVOPS 13-01 Florida Retirement System

SPONSOR(S): Government Operations Subcommittee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Subcommittee		Harrington 	Williamson 

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, effective January 1, 2014; and
- Prohibiting elected officials from joining the Senior Management Service Class in lieu of participation in the Elected Officers' 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.

The bill has an indeterminate fiscal impact on state and local governments. See Fiscal Comments section for further discussion.

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% 10.02% 8.36%
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 July 1, 2013, the bill:

- Closes the pension plan (defined benefit) to new enrollees, and requires all new enrollees to participate in the investment plan (defined contribution), effective January 1, 2014;
- Eliminates the option for new enrollees to apply for disability benefits, effective January 1, 2014;
- Expands the investment options available to investment plan members;
- Closes the Senior Management Service Optional Annuity Program to new participants, effective January 1, 2014; and
- Prohibits elected officials from joining the Senior Management Service Class in lieu of participation in the Elected Officers' Class, effective January 1, 2014.

Closing the Pension Plan

The bill provides that effective January 1, 2014, 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 members will be compulsory members of the investment plan.

Disability Benefits

The bill provides that new 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 eligible before January 1, 2014, 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. 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 employees 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 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 an 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; prohibiting an elected official eligible for membership in the Elected Officers' Class from enrolling in the Senior Management Service Class Optional Annuity Program; closing the Senior Management Service Class Optional Annuity Program to new members after a specified date.

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; 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.

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:

See below Fiscal Comments.

2. Expenditures:

See below Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See below Fiscal Comments.

2. Expenditures:

See below Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The fiscal impact of closing the pension plan to new enrollees and eliminating the disability benefit for such enrollees is unknown. The Department of Management Services has been requested to perform an actuarial study to determine the fiscal impact on the state and other participating employers. The department indicated the study will be completed by February 15, 2013.

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; however, an exception applies as the Legislature has determined that this bill satisfies an important state interest. In addition, similarly situated persons are all required to comply.

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

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.

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

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 new enrollees, 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.
- 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 7, 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

³⁸ *Id.* at 1036.

³⁹ *Id.* at 1037.

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

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

BILL

YEAR

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

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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

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

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

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

121.051 Participation in the system.—

(2) OPTIONAL PARTICIPATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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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

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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

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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.

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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

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

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

(6)

(c) Participation.—

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

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

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

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

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

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

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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

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

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

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

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

121.4501 Florida Retirement System Investment Plan.—

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

(4) PARTICIPATION; ENROLLMENT.—

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

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

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

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

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

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

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is forfeited.

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

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

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

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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~~

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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 ~~c. 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:~~

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

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

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

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

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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 ~~c. 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

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

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

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

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

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

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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

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

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

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

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

(f)1. All eligible employees, except those eligible to withdraw from the system under s. 121.052(3)(d) or s. 121.055(1)(b)2., or those eligible for optional retirement programs under s. 121.051(1)(a), s. 121.051(2)(c), or s. 121.35, initially enrolled on or after January 1, 2014, are compulsory members of the investment plan. Employees eligible to withdraw from the system under s. 121.052(3)(d) or s. 121.055(1)(b)2., may choose to withdraw from the system or to participate in the investment plan as provided in those sections. Employees eligible for optional retirement programs under s. 121.051(2)(c) or s. 121.35, except as provided in s. 121.051(1)(a), may choose to participate in the optional retirement program or the investment plan as provided in those sections. Membership in the pension plan is not permitted except as provided in s. 121.591(2).

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

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

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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

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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

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

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

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

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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

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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

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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,

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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

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

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

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

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

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

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

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,

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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:

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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

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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

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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

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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) ~~2550.404c-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. 2550.404c-~~
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

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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.

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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

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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

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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 (1) 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

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

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F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

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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	2012	2013

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

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

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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

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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.