

1                   A bill to be entitled  
2           An act relating to retirement; amending ss. 110.123,  
3           112.0801, 112.363, 112.65, and 121.011, F.S.;  
4           conforming provisions to changes made by the act;  
5           amending s. 121.021, F.S.; revising definitions;  
6           amending s. 121.051, F.S.; deleting requirement that a  
7           local governmental entity or the governing body of a  
8           charter school or charter technical career center make  
9           certain elections regarding benefits at the time the  
10          entity or governing body joins the Florida Retirement  
11          System; deleting requirement of employee retirement  
12          contributions; deleting provision providing that  
13          employer-paid employee contributions are subject to  
14          certain taxes; amending s. 121.0515, F.S.; redefining  
15          membership in the Special Risk Class; redefining  
16          criteria for Special Risk Class membership; amending  
17          s. 121.052, F.S., relating to the membership class of  
18          elected officers; conforming provisions to changes  
19          made by the act; deleting requirement of member  
20          contributions; deleting provision providing for a  
21          refund of contributions under certain circumstances  
22          for an officer who leaves office; deleting provision  
23          providing that a member who obtains a refund of  
24          contributions waives certain rights under the Florida  
25          Retirement System; amending s. 121.053, F.S.;  
26          clarifying the employer contributions required for  
27          Elected Officers' Class members who participate in the  
28          Deferred Retirement Option Program; amending s.

29 | 121.055, F.S., relating to the Senior Management  
 30 | Service Class; conforming provisions to changes made  
 31 | by the act; deleting requirement of employee  
 32 | contributions; deleting a provision providing for a  
 33 | refund of contributions under certain circumstances  
 34 | for a member who terminates employment; deleting a  
 35 | provision providing that a member who obtains a refund  
 36 | of contributions waives certain rights under the  
 37 | Florida Retirement System; deleting a provision  
 38 | limiting the payment of benefits prior to a  
 39 | participant's termination of employment; amending s.  
 40 | 121.061, F.S.; conforming provisions to changes made  
 41 | by the act; amending s. 121.071, F.S.; requiring  
 42 | employer contributions to the retirement system;  
 43 | revising provisions relating to the refund of  
 44 | contributions under certain circumstances after  
 45 | termination of employment; deleting a provision  
 46 | providing that a member who obtains a refund of  
 47 | contributions waives certain rights under the Florida  
 48 | Retirement System; deleting a provision requiring  
 49 | repayment plus interest of an invalid refund; amending  
 50 | s. 121.081, F.S.; revising requirements for  
 51 | contributions for prior service performed on or after  
 52 | a certain date; amending s. 121.091, F.S.; modifying  
 53 | the early retirement benefit calculation for those  
 54 | members retiring on or after a certain date or before  
 55 | the normal retirement date to reflect the change in  
 56 | normal retirement age; revising provisions relating to

57 | disability retirement for judges; revising provisions  
58 | providing for the refund of accumulated contributions  
59 | if a member's employment is terminated for any reason  
60 | other than retirement; revising the interest rate on  
61 | benefits for members enrolling in drop after a certain  
62 | date; conforming provisions to changes made by the  
63 | act; amending s. 121.1001, F.S.; conforming provisions  
64 | to changes made by the act; amending s. 121.101, F.S.;  
65 | revising the cost-of-living adjustment depending on  
66 | the date of retirement; amending s. 121.1115, F.S.;  
67 | conforming provisions to changes made by the act;  
68 | amending s. 121.1122, F.S.; conforming provisions to  
69 | changes made by the act; amending s. 121.121, F.S.;  
70 | deleting a provision requiring that the purchase of  
71 | creditable service after an authorized leave of  
72 | absence be purchased at the employer and employee  
73 | contribution rates in effect during the leave of  
74 | absence after a certain date; amending s. 121.125,  
75 | F.S.; deleting a provision requiring that a penalty be  
76 | assessed against certain employers that fail to pay  
77 | the required contributions for workers' compensation;  
78 | reenacting s. 121.161, F.S.; conforming provisions to  
79 | changes made by the act; amending s. 121.182, F.S.;  
80 | conforming provisions to changes made by the act;  
81 | amending s. 121.35, F.S., relating to the optional  
82 | retirement program for the State University System;  
83 | deleting requirement of employee contributions;  
84 | deleting a provision limiting the payment of benefits

85 before a participant's termination of employment;  
86 conforming provisions to changes made by the act;  
87 amending s. 121.355, F.S.; conforming provisions to  
88 changes made by the act; amending s. 121.4501, F.S.;  
89 changing the name of the Florida Retirement System  
90 Investment Plan to the Public Employee Optional  
91 Retirement Program; revising and providing  
92 definitions; revising the benefit commencement age for  
93 a member enrolled on or after a certain date; deleting  
94 a provision providing for contribution adjustments as  
95 a result of employer errors or corrections; deleting a  
96 provision requiring an employer to receive a credit  
97 for excess contributions and to reimburse an employee  
98 for excess contributions, subject to certain  
99 limitations; deleting a provision providing for a  
100 pension plan participant to retain his or her prior  
101 plan choice after a return to employment; deleting a  
102 provision prohibiting a retiree who is reemployed from  
103 renewing membership in the plan; deleting a provision  
104 limiting certain refunds of contributions which exceed  
105 the amount that would have accrued had the member  
106 remained in the defined benefit program; revising  
107 certain requirements and limitations with respect to  
108 contributions; clarifying that participant and  
109 employer contributions are earmarked for specified  
110 purposes; revising vesting requirements; conforming  
111 provisions to changes made by the act; amending s.  
112 121.4502, F.S.; changing the name of the Florida

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113 Retirement System Investment Plan Trust Fund to the  
114 Public Employee Optional Retirement Program Trust  
115 Fund; amending s. 121.4503, F.S.; conforming  
116 provisions to changes made by the act; amending s.  
117 121.571, F.S.; revising requirements for submitting  
118 Public Employee Optional Retirement Program  
119 contributions; amending s. 121.591, F.S.; revising  
120 provisions relating to the payment of benefits prior  
121 to a member's termination of employment; deleting a  
122 provision providing for the forfeiture of nonvested  
123 accumulations and service credits upon payment of  
124 certain vested benefits; deleting a provision  
125 providing that the distribution payment method  
126 selected by the member or beneficiary is final and  
127 irrevocable at the time of benefit distribution;  
128 deleting a provision prohibiting a distribution of  
129 employee contributions if a qualified domestic  
130 relations order is filed against the participant's  
131 account; conforming provisions to changes made by the  
132 act; amending s. 121.5911, F.S.; conforming provisions  
133 to changes made by the act; amending s. 121.70, F.S.;  
134 revising legislative intent; amending s. 121.71, F.S.;  
135 deleting provisions requiring that employee  
136 contributions be deducted from the employee's monthly  
137 salary, beginning on a specified date, and treated as  
138 employer contributions under certain provisions of  
139 federal law; deleting a provision clarifying that an  
140 employee may not receive such contributions directly;

141 specifying the required employee retirement  
142 contribution rates for the membership of each  
143 membership class and subclass of the Florida  
144 Retirement System; specifying the required employer  
145 retirement contribution rates for each membership  
146 class and subclass of the Florida Retirement System in  
147 order to address unfunded actuarial liabilities of the  
148 system; deleting a provision requiring an assessment  
149 to be imposed if the employee contributions remitted  
150 are less than the amount required under certain  
151 circumstances; deleting a provision providing for the  
152 employer to receive a credit for excess contributions  
153 remitted and to apply such credit against future  
154 contributions owed; amending ss. 121.72, 121.73,  
155 121.74, 121.75, and 121.77, F.S.; conforming  
156 provisions to changes made by the act; amending s.  
157 121.78, F.S.; deleting a provision requiring that  
158 certain fees be imposed for delinquent payments for  
159 retirement contributions; deleting a provision  
160 providing that an employer is responsible for  
161 recovering any refund provided to an employee in  
162 error; revising the terms of an authorized waiver of  
163 delinquency; deleting a provision requiring an  
164 employer to receive a credit for excess contributions  
165 and to reimburse an employee for excess contributions,  
166 subject to certain limitations; amending s. 1012.875,  
167 F.S.; deleting requirement of employer and employee  
168 contributions for members of the State Community

169 College System Optional Retirement Program on a  
 170 certain date; deleting a provision limiting the  
 171 payment of benefits prior to a participant's  
 172 termination of employment; requiring the state to  
 173 refund employee contributions plus interest made by  
 174 participants between July 1, 2011, and June 30, 2012,  
 175 at the actuarial assumption rate as determined by the  
 176 Division of Retirement; providing legislative  
 177 findings; providing that the act fulfills an important  
 178 state interest; providing an effective date.

179

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

181

182 Section 1. Paragraph (g) of subsection (2) of section  
 183 110.123, Florida Statutes, is amended to read:

184 110.123 State group insurance program.—

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

186 (g) "Retired state officer or employee" or "retiree" means  
 187 any state or state university officer or employee who retires  
 188 under a state retirement system or a state optional annuity or  
 189 retirement program or is placed on disability retirement, and  
 190 who was insured under the state group insurance program at the  
 191 time of retirement, and who begins receiving retirement benefits  
 192 immediately after retirement from state or state university  
 193 office or employment. In addition to these requirements, ~~The~~  
 194 ~~term also includes~~ any state officer or state employee who  
 195 retires under the Public Employee Optional Retirement Program  
 196 ~~Florida Retirement System Investment Plan~~ established under part

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197 II of chapter 121 shall be considered a retired state officer or  
 198 employee or retiree if he or she:

199 1. Meets the age and service requirements to qualify for  
 200 normal retirement as set forth in s. 121.021(29); or

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

203 Section 2. Section 112.0801, Florida Statutes, is amended  
 204 to read:

205 112.0801 Group insurance; participation by retired  
 206 employees.—

207 (1) Any state agency, county, municipality, special  
 208 district, community college, or district school board ~~that~~ which  
 209 provides life, health, accident, hospitalization, or annuity  
 210 insurance, or all of any kinds of such insurance, for its  
 211 officers and employees and their dependents upon a group  
 212 insurance plan or self-insurance plan shall allow all former  
 213 personnel who have retired before October 1, 1987, as well as  
 214 those who retire on or after such date, and their eligible  
 215 dependents, the option of continuing to participate in such ~~the~~  
 216 group insurance plan or self-insurance plan. Retirees and their  
 217 eligible dependents shall be offered the same health and  
 218 hospitalization insurance coverage as is offered to active  
 219 employees at a premium cost of no more than the premium cost  
 220 applicable to active employees. For the retired employees and  
 221 their eligible dependents, the cost of any such continued  
 222 participation in any type of plan or any of the cost thereof may  
 223 be paid by the employer or by the retired employees. To  
 224 determine health and hospitalization plan costs, the employer



225 shall commingle the claims experience of the retiree group with  
 226 the claims experience of the active employees; and, for other  
 227 types of coverage, the employer may commingle the claims  
 228 experience of the retiree group with the claims experience of  
 229 active employees. Retirees covered under Medicare may be  
 230 experience-rated separately from the retirees not covered by  
 231 Medicare and from active employees, provided that ~~if~~ the total  
 232 premium does not exceed that of the active group and coverage is  
 233 basically the same as for the active group.

234 (2) For purposes of this section, "retiree" means any  
 235 officer or employee who retires under a state retirement system  
 236 or a state optional annuity or retirement program or is placed  
 237 on disability retirement and who begins receiving retirement  
 238 benefits immediately after retirement from employment. In  
 239 addition to these requirements, any officer or employee who  
 240 retires under the Public Employee Optional Retirement Program  
 241 ~~Florida Retirement System Investment Plan~~ established under part  
 242 II of chapter 121 is considered a "retired officer or employee"  
 243 or "retiree" as used in this section if he or she:

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

246 (b) Has attained the age specified by s. 72(t)(2)(A)(i) of  
 247 the Internal Revenue Code and has 6 years of creditable service  
 248 ~~the years of service required for vesting as set forth in s.~~  
 249 ~~121.021(45).~~

250 Section 3. Paragraphs (b) and (c) of subsection (2) and  
 251 paragraph (e) of subsection (3) of section 112.363, Florida  
 252 Statutes, are amended to read:

253 112.363 Retiree health insurance subsidy.—  
 254 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—  
 255 (b) For purposes of this section, a person is deemed  
 256 retired from a state-administered retirement system when he or  
 257 she terminates employment with all employers participating in  
 258 the Florida Retirement System as described in s. 121.021(39)  
 259 and:

260 1. For a participant member of the Public Employee  
 261 Optional Retirement Program investment plan established under  
 262 part II of chapter 121, the participant meets the age or service  
 263 requirements to qualify for normal retirement as set forth in s.  
 264 121.021(29) ~~and meets the definition of retiree in s.~~  
 265 ~~121.4501(2).~~

266 2. For a member of the Florida Retirement System defined  
 267 benefit program Pension Plan, or any employee who maintains  
 268 creditable service under both the defined benefit program  
 269 ~~pension plan~~ and the Public Employee Optional Retirement Program  
 270 ~~investment plan~~, the member begins drawing retirement benefits  
 271 from the defined benefit program of the Florida Retirement  
 272 System pension plan.

273 (c) 1. Effective July 1, 2001, any person retiring on or  
 274 after such ~~that~~ date as a member of the Florida Retirement  
 275 System, including any participant a member of the defined  
 276 contribution program investment plan administered pursuant to  
 277 part II of chapter 121, must have satisfied the vesting  
 278 requirements for his or her membership class under the Florida  
 279 Retirement System defined benefit program pension plan as  
 280 administered under part I of chapter 121.

281           2. Notwithstanding the provisions of subparagraph 1.,  
 282 ~~However,~~ a person retiring due to disability must either qualify  
 283 for a regular or in-line-of-duty disability benefit as provided  
 284 in s. 121.091(4) or qualify for a disability benefit under a  
 285 disability plan established under part II of chapter 121, as  
 286 appropriate.

287           (3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

288           (e)1. Beginning July 1, 2001, each eligible retiree of the  
 289 defined benefit program ~~pension plan~~ of the Florida Retirement  
 290 System, or, if the retiree is deceased, his or her beneficiary  
 291 who is receiving a monthly benefit from such retiree's account  
 292 and who is a spouse, or a person who meets the definition of  
 293 joint annuitant in s. 121.021(28), shall receive a monthly  
 294 retiree health insurance subsidy payment equal to the number of  
 295 years of creditable service, as defined in s. 121.021(17),  
 296 completed at the time of retirement multiplied by \$5; however,  
 297 no eligible retiree or beneficiary may receive a subsidy payment  
 298 of more than \$150 or less than \$30. If there are multiple  
 299 beneficiaries, the total payment must ~~may~~ not be greater than  
 300 the payment to which the retiree was entitled. The health  
 301 insurance subsidy amount payable to any person receiving the  
 302 retiree health insurance subsidy payment on July 1, 2001, shall  
 303 ~~may~~ not be reduced solely by operation of this subparagraph.

304           2. Beginning July 1, 2002, each eligible participant  
 305 ~~member~~ of the Public Employee Optional Retirement Program  
 306 ~~investment plan~~ of the Florida Retirement System who has met the  
 307 requirements of this section, or, if the participant ~~member~~ is  
 308 deceased, his or her spouse who is the participant's ~~member's~~

309 designated beneficiary, shall receive a monthly retiree health  
 310 insurance subsidy payment equal to the number of years of  
 311 creditable service, as provided in this subparagraph, completed  
 312 at the time of retirement, multiplied by \$5; however, no ~~an~~  
 313 eligible retiree or beneficiary may ~~not~~ receive a subsidy  
 314 payment of more than \$150 or less than \$30. For purposes of  
 315 determining a participant's ~~member's~~ creditable service used to  
 316 calculate the health insurance subsidy, a participant's ~~member's~~  
 317 years of service credit or fraction thereof shall be based on  
 318 the participant's ~~member's~~ work year as defined in s.  
 319 121.021(54). Credit shall ~~must~~ be awarded for a full work year  
 320 whenever ~~if~~ health insurance subsidy contributions have been  
 321 made as required by law for each month in the participant's  
 322 ~~member's~~ work year. In addition, all years of creditable service  
 323 retained under the Florida Retirement System defined benefit  
 324 program shall ~~Pension Plan must~~ be included as creditable  
 325 service for purposes of this section. Notwithstanding any other  
 326 provision in this section to the contrary, the spouse at the  
 327 time of death ~~is~~ shall be the participant's ~~member's~~ beneficiary  
 328 unless such participant ~~member~~ has designated a different  
 329 beneficiary subsequent to the participant's ~~member's~~ most recent  
 330 marriage.

331 Section 4. Subsection (1) of section 112.65, Florida  
 332 Statutes, is amended to read:

333 112.65 Limitation of benefits.—

334 (1) ESTABLISHMENT OF PROGRAM.—The normal retirement  
 335 benefit or pension payable to a retiree who becomes a member of  
 336 any retirement system or plan and who has not previously

337 participated in such plan, on or after January 1, 1980, shall  
 338 ~~may~~ not exceed 100 percent of his or her average final  
 339 compensation. However, nothing contained in this section shall  
 340 ~~does not~~ apply to supplemental retirement benefits or to pension  
 341 increases attributable to cost-of-living increases or  
 342 adjustments. For the purposes of this section, benefits accruing  
 343 in individual participant ~~member~~ accounts established under the  
 344 Public Employee Optional Retirement Program investment plan  
 345 established in part II of chapter 121 are considered  
 346 supplemental benefits. As used in this section, the term  
 347 "average final compensation" means the average of the member's  
 348 earnings over a period of time which the governmental entity has  
 349 established by statute, charter, or ordinance.

350 Section 5. Paragraphs (g) and (h) of subsection (3) of  
 351 section 121.011, Florida Statutes, are amended to read:

352 121.011 Florida Retirement System.—

353 (3) PRESERVATION OF RIGHTS.—

354 (g) Any member of the Florida Retirement System or any  
 355 member of an existing system under this chapter who is not  
 356 retired and who is, has been, or shall be dismissed from  
 357 employment shall be considered terminated from active membership  
 358 in such system.

359 1. If such dismissal is rescinded by proper authority or  
 360 through legal proceedings, the member is eligible to receive  
 361 retirement service credit for such period of dismissal provided  
 362 ~~if~~:

363 a. The dismissal action taken against the member is  
 364 determined to be incorrect and is negated, the employee is made

365 whole for the period of the dismissal or any portion thereof,  
 366 and employment is reinstated; and

367 b. The employer pays into the Retirement System Trust Fund  
 368 the total required employer contributions for the period for  
 369 which the employee is made whole, plus interest at 6.5 percent  
 370 compounded annually until full payment is made. The employee  
 371 shall pay the total employee contributions, plus interest, if  
 372 applicable. ~~The employer shall pay the interest on employee~~  
 373 ~~contributions, if applicable.~~

374 2. If the dismissal action is subsequently changed to a  
 375 suspension by proper authority or through legal proceedings, the  
 376 member is eligible to receive retirement service credit,  
 377 provided the member's employment is reinstated, restoring the  
 378 employee-employer relationship, and the employee pays the total  
 379 required employer and employee contributions and complies with  
 380 all requirements in paragraph (e).

381 ~~(h) Effective July 1, 2011, the retirement system shall~~  
 382 ~~require employer and employee contributions as provided in s.~~  
 383 ~~121.071 and part III of this chapter.~~

384 Section 6. Subsections (3), (7), and (15), paragraph (a)  
 385 of subsection (19), paragraph (b) of subsection (22), and  
 386 subsections (24), (29), (38), (39), (45), (55), and (59) of  
 387 section 121.021, Florida Statutes, are amended to read:

388 121.021 Definitions.—The following words and phrases as  
 389 used in this chapter have the respective meanings set forth  
 390 unless a different meaning is plainly required by the context:

391 (3) ~~"Florida Retirement System" or "System"~~ means the  
 392 general retirement system established by this chapter to be

393 known and cited as the "Florida Retirement System,"~~7~~ including,  
 394 but not limited to, the defined benefit retirement program  
 395 administered under the provisions of part I of this chapter  
 396 ~~part, referred to as the "Florida Retirement System Pension~~  
 397 ~~Plan" or "pension plan,"~~ and the defined contribution retirement  
 398 program known as the Public Employee Optional Retirement Program  
 399 and administered under the provisions of part II of this  
 400 ~~chapter, referred to as the "Florida Retirement System~~  
 401 ~~Investment Plan" or "investment plan."~~

402 (7) "City" means any municipality duly incorporated under  
 403 the laws of the state."~~Division" means the Division of~~  
 404 ~~Retirement in the department.~~

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

416 (b) Effective October 1, 1978, "special risk member" means  
 417 a member of the Florida Retirement System who is designated as a  
 418 special risk member by the division in accordance with s.  
 419 121.0515. Such member must be employed as a law enforcement  
 420 officer, a firefighter, or a correctional officer and must meet

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421 certain other special criteria as set forth in s. 121.0515.

422 (c) Effective October 1, 1999, "special risk member" means  
423 a member of the Florida Retirement System who is designated as a  
424 special risk member by the division in accordance with s.  
425 121.0515. Such member must be employed as a law enforcement  
426 officer, a firefighter, a correctional officer, an emergency  
427 medical technician, or a paramedic and must meet certain other  
428 special criteria as set forth in s. 121.0515.

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

433 2. Effective January 1, 2001, "special risk member"  
434 includes any professional health care bargaining unit or non-  
435 unit member who is employed by the Department of Corrections or  
436 the Department of Children and Family Services and meets the  
437 special criteria set forth in s. 121.0515(2) (f).

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

442 (f) Effective August 1, 2008, "special risk member"  
443 includes any member who meets the special criteria for continued  
444 membership set forth in s. 121.0515(2) (k). ~~"Special risk member"~~  
445 ~~or "Special Risk Class member" means a member of the Florida~~  
446 ~~Retirement System who meets the eligibility and criteria~~  
447 ~~required under s. 121.0515 for participation in the Special Risk~~  
448 ~~Class.~~



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

450 (a) Service for which the member had credit under one of  
 451 the existing systems and received a refund of his or her  
 452 contributions upon termination of employment. Prior service  
 453 shall also include that ~~includes~~ service between December 1,  
 454 1970, and the date the system becomes noncontributory for which  
 455 the member had credit under the Florida Retirement System and  
 456 received a refund of his or her contributions upon termination  
 457 of employment.

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

461 (b) Under no circumstances shall compensation for a member  
 462 participating in the defined benefit retirement program ~~pension~~  
 463 ~~plan~~ or the Public Employee Optional Retirement Program  
 464 ~~investment plan~~ of the Florida Retirement System ~~may not~~  
 465 include:

466 1. Fees paid professional persons for special or  
 467 particular services or include salary payments made from a  
 468 faculty practice plan authorized by the Board of Governors of  
 469 the State University System for eligible clinical faculty at a  
 470 college in a state university that has a faculty practice plan;  
 471 or

472 2. Any bonuses or other payments prohibited from inclusion  
 473 in the member's average final compensation and defined in  
 474 subsection (47).

475 (24) ~~(a)~~ "Average final compensation" means:

476 ~~1. For members initially enrolled before July 1, 2011, The~~

477 average of the 5 highest fiscal years of compensation for  
 478 creditable service before retirement, termination, or death. For  
 479 in-line-of-duty disability benefits, if less than 5 years of  
 480 creditable service have been completed, the term "average final  
 481 compensation" means the average annual compensation of the total  
 482 number of years of creditable service. Each year used in the  
 483 calculation of ~~to calculate the~~ average final compensation shall  
 484 commence ~~commences~~ on July 1.

485 ~~2. For members initially enrolled on or after July 1,~~  
 486 ~~2011, the average of the 8 highest fiscal years of compensation~~  
 487 ~~for creditable service before retirement, termination, or death.~~  
 488 ~~For in-line-of-duty disability benefits, if less than 8 years of~~  
 489 ~~creditable service have been completed, the term means the~~  
 490 ~~average annual compensation of the total number of years of~~  
 491 ~~creditable service. Each year used to calculate average final~~  
 492 ~~compensation commences on July 1.~~

493 ~~(a)(b)~~ The average final compensation ~~includes~~ shall  
 494 include:

495 1. Accumulated annual leave payments, not to exceed 500  
 496 hours; and

497 2. All payments defined as compensation in subsection  
 498 (22).

499 ~~(b)(e)~~ The average final compensation ~~does~~ shall not  
 500 include:

501 1. Compensation paid to professional persons for special  
 502 or particular services;

503 2. Payments for accumulated sick leave made due to  
 504 retirement or termination;

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505 3. Payments for accumulated annual leave in excess of 500  
506 hours;

507 4. Bonuses as defined in subsection (47);

508 5. Third party payments made on and after July 1, 1990; or

509 6. Fringe benefits (for example, automobile allowances or  
510 housing allowances).

511 (29) "Normal retirement date" means the date a member  
512 attains normal retirement age and is vested, which is determined  
513 as follows:

514 (a)~~1.~~ If a Regular Class member, a Senior Management  
515 Service Class member, or an Elected Officers' Class member  
516 ~~initially enrolled before July 1, 2011:~~

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

519 2.b. The first day of the month after following the date  
520 the member completes 30 years of creditable service, regardless  
521 of age.

522 ~~2. If a Regular Class member, a Senior Management Service~~  
523 ~~Class member, or an Elected Officers' Class member initially~~  
524 ~~enrolled on or after July 1, 2011:~~

525 ~~a. The first day of the month the member attains age 65;~~  
526 ~~or~~

527 ~~b. The first day of the month following the date the~~  
528 ~~member completes 33 years of creditable service, regardless of~~  
529 ~~age.~~

530 (b)~~1.~~ If a Special Risk Class member ~~initially enrolled~~  
531 ~~before July 1, 2011:~~

532 1.a. The first day of the month the member completes 6 or

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533 more years of creditable service in the Special Risk Class and  
534 ~~attains age 55 and completes the years of creditable service in~~  
535 ~~the Special Risk Class equal to or greater than the years of~~  
536 ~~service required for vesting;~~

537 2.b. The first day of the month after ~~following~~ the date  
538 the member completes 25 years of creditable service in the  
539 Special Risk Class, regardless of age; or

540 3.e. The first day of the month after ~~following~~ the date  
541 the member completes 25 years of creditable service and attains  
542 age 52, which service may include a maximum of 4 years of  
543 military service credit as long as ~~if~~ such credit is not claimed  
544 under any other system and the remaining years are in the  
545 Special Risk Class.

546 ~~2. If a Special Risk Class member initially enrolled on or~~  
547 ~~after July 1, 2011:~~

548 ~~a. The first day of the month the member attains age 60~~  
549 ~~and completes the years of creditable service in the Special~~  
550 ~~Risk Class equal to or greater than the years of service~~  
551 ~~required for vesting;~~

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

555 ~~e. The first day of the month following the date the~~  
556 ~~member completes 30 years of creditable service and attains age~~  
557 ~~57, which service may include a maximum of 4 years of military~~  
558 ~~service credit if such credit is not claimed under any other~~  
559 ~~system and the remaining years are in the Special Risk Class.~~

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561 "Normal retirement age" is attained on the "normal retirement  
562 date."

563 (38) "Continuous service" means creditable service as a  
564 member, beginning with the first day of employment with an  
565 employer covered under a state-administered retirement system  
566 consolidated herein and continuing for as long as the member  
567 remains in an employer-employee relationship with an employer  
568 covered under this chapter. An absence of 1 calendar month or  
569 more from an employer's payroll shall be considered a break in  
570 continuous service, except for periods of absence during which  
571 an employer-employee relationship continues to exist and such  
572 period of absence is creditable under this chapter or under one  
573 of the existing systems consolidated herein. However, a law  
574 enforcement officer as defined in s. 121.0515 (2) ~~(3)~~ (a) who was a  
575 member of a state-administered retirement system under chapter  
576 122 or chapter 321 and who resigned and was subsequently  
577 reemployed in a law enforcement position within 12 calendar  
578 months of such resignation by an employer under such state-  
579 administered retirement system shall be deemed to have not  
580 experienced a break in service. Further, with respect to a  
581 state-employed law enforcement officer who meets the criteria  
582 specified in s. 121.0515 (2) ~~(3)~~ (a), if the absence from the  
583 employer's payroll is the result of a "layoff" as defined in s.  
584 110.107 or a resignation to run for an elected office that meets  
585 the criteria specified in s. 121.0515 (2) ~~(3)~~ (a), no break in  
586 continuous service shall be deemed to have occurred if the  
587 member is reemployed as a state law enforcement officer or is  
588 elected to an office which meets the criteria specified in s.

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CODING: Words stricken are deletions; words underlined are additions.

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589 121.0515(2)~~(3)~~(a) within 12 calendar months after the date of  
 590 the layoff or resignation, notwithstanding the fact that such  
 591 period of layoff or resignation is not creditable service under  
 592 this chapter. A withdrawal of contributions will constitute a  
 593 break in service. Continuous service also includes past service  
 594 purchased under this chapter, provided such service is  
 595 continuous within this definition and the rules established by  
 596 the administrator. The administrator may establish  
 597 administrative rules and procedures for applying this definition  
 598 to creditable service authorized under this chapter. Any  
 599 correctional officer, as defined in s. 943.10, whose  
 600 participation in the state-administered retirement system is  
 601 terminated due to the transfer of a county detention facility  
 602 through a contractual agreement with a private entity pursuant  
 603 to s. 951.062, shall be deemed an employee with continuous  
 604 service in the Special Risk Class, provided return to employment  
 605 with the former employer takes place within 3 years due to  
 606 contract termination or the officer is employed by a covered  
 607 employer in a special risk position within 1 year after his or  
 608 her initial termination of employment by such transfer of its  
 609 detention facilities to the private entity.

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

613 1. For retirements effective before July 1, 2010, if a  
 614 member is employed by any such employer within the next calendar  
 615 month, termination shall be deemed not to have occurred. A leave  
 616 of absence constitutes a continuation of the employment

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617 relationship, except that a leave of absence without pay due to  
 618 disability may constitute termination if such member makes  
 619 application for and is approved for disability retirement in  
 620 accordance with s. 121.091(4). The department or state board may  
 621 require other evidence of termination as it deems necessary.

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

631 (b) "Termination" for a member electing to participate in  
 632 the Deferred Retirement Option Program occurs when the program  
 633 participant ceases all employment relationships with an employer  
 634 ~~participating employers~~ in accordance with s. 121.091(13),  
 635 however:

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

642 2. For termination dates occurring on or after July 1,  
 643 2010, if the participant member becomes employed by any such  
 644 employer within the next 6 calendar months, termination will be

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645 deemed not to have occurred, except as provided in s.  
646 121.091(13)(b)4.c. A leave of absence constitutes a continuation  
647 of the employment relationship.

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

653 (45) (a) "Vested" or "vesting" means the guarantee that a  
654 member is eligible to receive a future retirement benefit upon  
655 completion of the required years of creditable service for the  
656 employee's class of membership, even though the member may have  
657 terminated covered employment before reaching normal or early  
658 retirement date. Being vested does not entitle a member to a  
659 disability benefit. Provisions governing entitlement to  
660 disability benefits are set forth under s. 121.091(4).

661 ~~(a)(b) Effective July 1, 2001, through June 30, 2011, a 6-~~  
662 ~~year vesting requirement shall be implemented for the defined~~  
663 ~~benefit program of the Florida Retirement System. Pursuant~~  
664 ~~thereto System Pension Plan:~~

665 1. Any member employed in a regularly established position  
666 on July 1, 2001, who completes or has completed a total of 6  
667 years of creditable service shall be ~~is~~ considered vested as  
668 described in paragraph (a).

669 2. Any member not employed in a regularly established  
670 position on July 1, 2001, shall be deemed vested upon completion  
671 of 6 years of creditable service, provided that ~~if~~ such member  
672 is employed in a covered position for at least 1 work year after



673 July 1, 2001. However, no a member shall be ~~is not~~ required to  
 674 complete more years of creditable service than would have been  
 675 required for that member to vest under retirement laws in effect  
 676 before July 1, 2001.

677 ~~3. Any member initially enrolled in the Florida Retirement~~  
 678 ~~System on July 1, 2001, through June 30, 2011, shall be deemed~~  
 679 ~~vested upon completion of 6 years of creditable service.~~

680 ~~(b) Any member initially enrolled in the Florida~~  
 681 ~~Retirement System on or after July 1, 2011, shall be vested upon~~  
 682 ~~completion of 8 years of creditable service.~~

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

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

689 Section 7. Paragraphs (b) and (c) of subsection (2) and  
 690 subsection (3) of section 121.051, Florida Statutes, are amended  
 691 to read:

692 121.051 Participation in the system.—

693 (2) OPTIONAL PARTICIPATION.—

694 (b)1. The governing body of any municipality, metropolitan  
 695 planning organization, or special district in the state may  
 696 elect to participate in the ~~Florida Retirement~~ System upon  
 697 proper application to the administrator and may cover all or any  
 698 of its units as approved by the Secretary of Health and Human  
 699 Services and the administrator. The department shall adopt rules  
 700 establishing provisions ~~procedures~~ for the submission of

701 documents necessary for such application. Prior to ~~Before~~ being  
 702 approved for participation in the Florida Retirement System, the  
 703 governing body of ~~a~~ any such municipality, metropolitan planning  
 704 organization, or special district that has a local retirement  
 705 system shall ~~must~~ submit to the administrator a certified  
 706 financial statement showing the condition of the local  
 707 retirement system as of a date within 3 months prior to ~~before~~  
 708 the proposed effective date of membership in the Florida  
 709 Retirement System. The statement must be certified by a  
 710 recognized accounting firm that is independent of the local  
 711 retirement system. All required documents necessary for  
 712 extending Florida Retirement System coverage must be received by  
 713 the department for consideration at least 15 days prior ~~before~~  
 714 to the proposed effective date of coverage. If the municipality,  
 715 metropolitan planning organization, or special district does not  
 716 comply with this requirement, the department may require that  
 717 the effective date of coverage be changed.

718 2. Any city ~~A municipality~~, metropolitan planning  
 719 organization, or special district that has an existing  
 720 retirement system covering the employees in the units that are  
 721 to be brought under the Florida Retirement System may  
 722 participate only after holding a referendum in which all  
 723 employees in the affected units have the right to participate.  
 724 Only those employees electing coverage under the Florida  
 725 Retirement System by affirmative vote in said ~~the~~ referendum ~~are~~  
 726 shall be eligible for coverage under this chapter, and those not  
 727 participating or electing not to be covered by the Florida  
 728 Retirement System shall remain in their present systems and ~~are~~

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729 shall not be eligible for coverage under this chapter. After the  
 730 referendum is held, all future employees shall be ~~are~~ compulsory  
 731 members of the Florida Retirement System.

732 3. ~~At the time of joining the Florida Retirement System,~~  
 733 the governing body of any city ~~a municipality~~, metropolitan  
 734 planning organization, or special district complying with  
 735 subparagraph 1. may elect to provide, or not provide, benefits  
 736 based on past service of officers and employees as described in  
 737 s. 121.081(1). However, if such employer elects to provide past  
 738 service benefits, such benefits must be provided for all  
 739 officers and employees of its covered group.

740 4. Once this election is made and approved it may not be  
 741 revoked, except pursuant to subparagraphs 5. and 6., and all  
 742 present officers and employees electing coverage under this  
 743 chapter and all future officers and employees shall be ~~are~~  
 744 compulsory members of the Florida Retirement System.

745 5. Subject to the conditions set forth in subparagraph 6.,  
 746 the governing body of any ~~a~~ hospital licensed under chapter 395  
 747 which is governed by the board of a special district as defined  
 748 in s. 189.403(1) or by the board of trustees of a public health  
 749 trust created under s. 154.07, hereinafter referred to as  
 750 "hospital district," and which participates in the ~~Florida~~  
 751 ~~Retirement~~ system, may elect to cease participation in the  
 752 system with regard to future employees in accordance with the  
 753 following procedure:

754 a. No more than 30 days and at least 7 days before  
 755 adopting a resolution to partially withdraw from the Florida  
 756 Retirement System and establish an alternative retirement plan

757 | for future employees, a public hearing must be held on the  
 758 | proposed withdrawal and proposed alternative plan.

759 |       b. From 7 to 15 days before such hearing, notice of intent  
 760 | to withdraw, specifying the time and place of the hearing, must  
 761 | be provided in writing to employees of the hospital district  
 762 | proposing partial withdrawal and must be published in a  
 763 | newspaper of general circulation in the area affected, as  
 764 | provided by ss. 50.011-50.031. Proof of publication of such  
 765 | notice shall ~~must~~ be submitted to the Department of Management  
 766 | Services.

767 |       c. The governing body of any ~~a~~ hospital district seeking  
 768 | to partially withdraw from the system must, before such hearing,  
 769 | have an actuarial report prepared and certified by an enrolled  
 770 | actuary, as defined in s. 112.625(3), illustrating the cost to  
 771 | the hospital district of providing, through the retirement plan  
 772 | that the hospital district is to adopt, benefits for new  
 773 | employees comparable to those provided under the Florida  
 774 | Retirement system.

775 |       d. Upon meeting all applicable requirements of this  
 776 | subparagraph, and subject to the conditions set forth in  
 777 | subparagraph 6., partial withdrawal from the system and adoption  
 778 | of the alternative retirement plan may be accomplished by  
 779 | resolution duly adopted by the hospital district board. The  
 780 | hospital district board must provide written notice of such  
 781 | withdrawal to the division by mailing a copy of the resolution  
 782 | to the division, postmarked no later than ~~by~~ December 15, 1995.  
 783 | The withdrawal shall take effect January 1, 1996.

784 |       6. After ~~Following~~ the adoption of a resolution under sub-

785 subparagraph 5.d., all employees of the withdrawing hospital  
 786 district who were participants in ~~members of~~ the Florida  
 787 Retirement System prior to ~~before~~ January 1, 1996, shall remain  
 788 as participants in ~~members of~~ the system for as long as they are  
 789 employees of the hospital district, and all rights, duties, and  
 790 obligations between the hospital district, the system, and the  
 791 employees shall remain in full force and effect. Any employee  
 792 who is hired or appointed on or after January 1, 1996, may not  
 793 participate in the Florida Retirement system, and the  
 794 withdrawing hospital district shall have ~~has~~ no obligation to  
 795 the system with respect to such employees.

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

805 1.~~a.~~ Through June 30, 2001, the cost to the employer for  
 806 such annuity ~~benefits under the optional retirement program~~  
 807 equals the normal cost portion of the employer retirement  
 808 contribution which would be required if the employee were a  
 809 member of the ~~pension plan's~~ Regular Class defined benefit  
 810 program, plus the portion of the contribution rate required by  
 811 s. 112.363(8) which would otherwise be assigned to the Retiree  
 812 Health Insurance Subsidy Trust Fund.

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

819 ~~e.~~ ~~Effective July 1, 2011,~~ each member shall contribute an  
820 amount equal to the ~~employee contribution required under s.~~  
821 ~~121.71(3).~~ The employer shall contribute on behalf of each  
822 program member an amount equal to the difference between 10.43  
823 percent of the ~~employee's~~ gross monthly compensation and the  
824 ~~employee's~~ required contribution based on the ~~employee's~~ gross  
825 ~~monthly compensation.~~

826 ~~d.~~ The employer shall contribute an additional amount to  
827 the Florida Retirement System Trust Fund equal to the unfunded  
828 actuarial accrued liability portion of the Regular Class  
829 contribution rate.

830 2. The decision to participate in an ~~the~~ optional  
831 retirement program is irrevocable as long as the employee holds  
832 a position eligible for participation, except as provided in  
833 subparagraph 3. Any service creditable under the Florida  
834 Retirement System is retained after the member withdraws from  
835 the system; however, additional service credit in the system may  
836 not be earned while a member of the optional retirement program.

837 3. An employee who has elected to participate in the  
838 optional retirement program shall have one opportunity, at the  
839 employee's discretion, to transfer from the optional retirement  
840 program to the defined benefit program ~~pension plan~~ of the

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

845 a. If the employee chooses to move to the Public Employee  
846 Optional Retirement Program investment plan, any contributions,  
847 interest, and earnings creditable to the employee under the  
848 State Community College System optional retirement program are  
849 retained by the employee in the State Community College System  
850 optional retirement program, and the applicable provisions of s.  
851 121.4501(4) govern the election.

852 b. If the employee chooses to move to the defined benefit  
853 program pension plan of the Florida Retirement System, the  
854 employee shall receive service credit equal to his or her years  
855 of service under the State Community College System optional  
856 retirement program.

857 (I) The cost for such credit is the amount representing  
858 the present value of the employee's accumulated benefit  
859 obligation for the affected period of service. The cost shall be  
860 calculated as if the benefit commencement occurs on the first  
861 date the employee becomes eligible for unreduced benefits, using  
862 the discount rate and other relevant actuarial assumptions that  
863 were used to value the Florida Retirement System ~~Pension~~ defined  
864 benefit Plan liabilities in the most recent actuarial valuation.  
865 The calculation must include any service already maintained  
866 under the defined benefit pension plan in addition to the years  
867 under the State Community College System optional retirement  
868 program. The present value of any service already maintained

869 must be applied as a credit to total cost resulting from the  
 870 calculation. The division shall ensure that the transfer sum is  
 871 prepared using a formula and methodology certified by an  
 872 enrolled actuary.

873 (II) The employee must transfer from his or her State  
 874 Community College System optional retirement program account and  
 875 from other employee moneys as necessary, a sum representing the  
 876 present value of the employee's accumulated benefit obligation  
 877 immediately after ~~following~~ the time of such movement,  
 878 determined assuming that attained service equals the sum of  
 879 service in the defined benefit program ~~pension plan~~ and service  
 880 in the State Community College System optional retirement  
 881 program.

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

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

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

892 (I) Instructional; or

893 (II) Executive Management, Instructional Management, or  
 894 Institutional Management, if a ~~and the~~ community college  
 895 determines that recruiting to fill a vacancy in the position is  
 896 to be conducted in the national or regional market, and the



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897 duties and responsibilities of the position include the  
898 formulation, interpretation, or implementation of policies, or  
899 the performance of functions that are unique or specialized  
900 within higher education and that frequently support the mission  
901 of the community college.

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

905 5. Participants in ~~Members of~~ the program are subject to  
906 the same reemployment limitations, renewed membership  
907 provisions, and forfeiture provisions as are applicable to  
908 regular members of the Florida Retirement System under ss.  
909 121.091(9), 121.122, and 121.091(5), respectively. A participant  
910 ~~member~~ who receives a program distribution funded by employer  
911 ~~and required employee~~ contributions shall be ~~is~~ deemed to be  
912 retired from a state-administered retirement system if the  
913 participant ~~member~~ is subsequently employed with an employer  
914 that participates in the Florida Retirement System.

915 6. Eligible community college employees are compulsory  
916 members of the Florida Retirement System until, pursuant to s.  
917 1012.875, a written election to withdraw from the system and  
918 participate in the State Community College System optional  
919 retirement program is filed with the program administrator and  
920 received by the division.

921 a. A community college employee whose program eligibility  
922 results from initial employment must ~~shall~~ be enrolled in the  
923 State Community College System optional retirement program  
924 retroactive to the first day of eligible employment. The

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925 employer ~~and employee~~ retirement contributions paid through the  
926 month of the employee plan change shall be transferred to the  
927 community college to the employee's optional program account,  
928 and, effective the first day of the next month, the employer  
929 shall pay the applicable contributions based upon subparagraph  
930 1.

931 b. A community college employee whose program eligibility  
932 is due to the subsequent designation of the employee's position  
933 as one of those specified in subparagraph 4., or due to the  
934 employee's appointment, promotion, transfer, or reclassification  
935 to a position specified in subparagraph 4., must be enrolled in  
936 the program on the first day of the first full calendar month  
937 that such change in status becomes effective. The employer ~~and~~  
938 ~~employee~~ retirement contributions paid from the effective date  
939 through the month of the employee plan change must be  
940 transferred to the community college to the employee's optional  
941 program account, and, effective the first day of the next month,  
942 the employer shall pay the applicable contributions based upon  
943 subparagraph 1.

944 7. Effective July 1, 2003, through December 31, 2008, any  
945 participant member of the State Community College System  
946 optional retirement program who has service credit in the  
947 defined benefit pension plan of the Florida Retirement System  
948 for the period between his or her first eligibility to transfer  
949 from the defined benefit pension plan to the optional retirement  
950 program and the actual date of transfer may, during employment,  
951 transfer to the optional retirement program a sum representing  
952 the present value of the accumulated benefit obligation under

953 the defined benefit retirement program for the period of service  
 954 credit. Upon transfer, all service credit previously earned  
 955 under the defined benefit program of the Florida Retirement  
 956 System ~~pension plan~~ during this period is nullified for purposes  
 957 of entitlement to a future benefit under the defined benefit  
 958 program of the Florida Retirement System ~~pension plan~~.

959 (3) SOCIAL SECURITY COVERAGE.—Social security coverage  
 960 shall be provided for all officers and employees who become  
 961 members under the provisions of subsection (1) or subsection  
 962 (2). Any modification of the present agreement with the Social  
 963 Security Administration, or referendum required under the Social  
 964 Security Act, for the purpose of providing social security  
 965 coverage for any member shall be requested by the state agency  
 966 in compliance with the applicable provisions of the Social  
 967 Security Act governing such coverage. However, retroactive  
 968 social security coverage for service prior to ~~before~~ December 1,  
 969 1970, with the employer shall ~~may~~ not be provided for any ~~a~~  
 970 member who was not covered under the agreement as of November  
 971 30, 1970. ~~The employer-paid employee contributions specified in~~  
 972 ~~s. 121.71(3) are subject to taxes imposed under the Federal~~  
 973 ~~Insurance Contributions Act, 26 U.S.C. ss. 3101-3128.~~

974 Section 8. Section 121.0515, Florida Statutes, is amended  
 975 to read:

976 121.0515 Special Risk Membership Class.—

977 (1) LEGISLATIVE INTENT ESTABLISHMENT OF CLASS.—~~A separate~~  
 978 In creating the Special Risk class of membership within the  
 979 Florida Retirement System, it is the intent and purpose of the  
 980 Legislature to be known as the "Special Risk Class," is

981 ~~established~~ to recognize that persons employed in certain  
 982 categories of law enforcement, firefighting, criminal detention,  
 983 and emergency medical care positions are required as one of the  
 984 essential functions of their positions to perform work that is  
 985 physically demanding or arduous, or work that requires  
 986 extraordinary agility and mental acuity, and that such persons,  
 987 because of diminishing physical and mental faculties, may find  
 988 that they are not able, without risk to the health and safety of  
 989 themselves, the public, or their coworkers, to continue  
 990 performing such duties and thus enjoy the full career and  
 991 retirement benefits enjoyed by persons employed in other  
 992 positions ~~membership classes~~ and that, if they find it  
 993 necessary, due to the physical and mental limitations of their  
 994 age, to retire at an earlier age and usually with less service,  
 995 they will suffer an economic deprivation therefrom. Therefore,  
 996 as a means of recognizing ~~To address~~ the peculiar and special  
 997 problems of this class of employees, it is the intent and  
 998 purpose of the Legislature to establish a class of retirement  
 999 membership ~~is established~~ that awards more retirement credit per  
 1000 year of service than that awarded to other employees; however,  
 1001 nothing contained herein shall require ineligibility for Special  
 1002 Risk ~~Class~~ membership upon reaching age 55.

1003 ~~(2) MEMBERSHIP.~~

1004 ~~(a) Until October 1, 1978, "special risk member" means any~~  
 1005 ~~officer or employee whose application is approved by the~~  
 1006 ~~administrator and who receives salary payments for work~~  
 1007 ~~performed as a peace officer; law enforcement officer; police~~  
 1008 ~~officer; highway patrol officer; custodial employee at a~~

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1009 ~~correctional or detention facility; correctional agency employee~~  
 1010 ~~whose duties and responsibilities involve direct contact with~~  
 1011 ~~inmates, but excluding secretarial and clerical employees;~~  
 1012 ~~firefighter; or an employee in any other job in the field of law~~  
 1013 ~~enforcement or fire protection if the duties of such person are~~  
 1014 ~~certified as hazardous by his or her employer.~~

1015 ~~(b) Effective October 1, 1978, through September 30, 1999,~~  
 1016 ~~"special risk member" means a member of the Florida Retirement~~  
 1017 ~~System who is designated as a special risk member by the~~  
 1018 ~~division in accordance with this section. Such member must be~~  
 1019 ~~employed as a law enforcement officer, a firefighter, or a~~  
 1020 ~~correctional officer and must meet certain other special~~  
 1021 ~~criteria as set forth in this section.~~

1022 ~~(c) Effective October 1, 1999, "special risk member" means~~  
 1023 ~~a member of the Florida Retirement System who is designated as a~~  
 1024 ~~special risk member by the division in accordance with this~~  
 1025 ~~section. Such member must be employed as a law enforcement~~  
 1026 ~~officer, a firefighter, a correctional officer, an emergency~~  
 1027 ~~medical technician, or a paramedic and must meet certain other~~  
 1028 ~~special criteria as set forth in this section.~~

1029 ~~(d) Effective January 1, 2001, "special risk member"~~  
 1030 ~~includes:~~

1031 ~~1. Any member who is employed as a community based~~  
 1032 ~~correctional probation officer and meets the special criteria~~  
 1033 ~~set forth in paragraph (3) (c).~~

1034 ~~2. Any professional health care bargaining unit or non-~~  
 1035 ~~unit member who is employed by the Department of Corrections or~~  
 1036 ~~the Department of Children and Family Services and meets the~~

1037 ~~special criteria set forth in paragraph (3)(f).~~

1038 ~~(e) Effective July 1, 2001, "special risk member" includes~~  
 1039 ~~any member who is employed as a youth custody officer by the~~  
 1040 ~~Department of Juvenile Justice and meets the special criteria~~  
 1041 ~~set forth in paragraph (3)(g).~~

1042 ~~(f) Effective October 1, 2005, through June 30, 2008, the~~  
 1043 ~~member must be employed by a law enforcement agency or medical~~  
 1044 ~~examiner's office in a forensic discipline and meet the special~~  
 1045 ~~criteria set forth in paragraph (3)(h).~~

1046 ~~(g) Effective July 1, 2008, the member must be employed by~~  
 1047 ~~the Department of Law Enforcement in the crime laboratory or by~~  
 1048 ~~the Division of State Fire Marshal in the forensic laboratory~~  
 1049 ~~and meet the special criteria set forth in paragraph (3)(i).~~

1050 ~~(h) Effective July 1, 2008, the member must be employed by~~  
 1051 ~~a local government law enforcement agency or medical examiner's~~  
 1052 ~~office and meet the special criteria set forth in paragraph~~  
 1053 ~~(3)(j).~~

1054 ~~(i) Effective August 1, 2008, "special risk member"~~  
 1055 ~~includes any member who meets the special criteria for continued~~  
 1056 ~~membership set forth in paragraph (3)(k).~~

1057 (2)~~(3)~~ CRITERIA.—A member, to be designated as a special  
 1058 risk member, must meet the following criteria:

1059 (a) ~~Effective October 1, 1978,~~ The member must be employed  
 1060 as a law enforcement officer and be certified, or required to be  
 1061 certified, in compliance with s. 943.1395; however, sheriffs and  
 1062 elected police chiefs shall be ~~are~~ excluded from meeting the  
 1063 certification requirements of this paragraph. In addition, the  
 1064 member's duties and responsibilities must include the pursuit,

1065 apprehension, and arrest of law violators or suspected law  
 1066 violators; or ~~as of July 1, 1982,~~ the member must be an active  
 1067 member of a bomb disposal unit whose primary responsibility is  
 1068 the location, handling, and disposal of explosive devices; or  
 1069 the member must be the supervisor or command officer of a member  
 1070 or members who have such responsibilities; provided, however,  
 1071 administrative support personnel, including, but not limited to,  
 1072 those whose primary duties and responsibilities are in  
 1073 accounting, purchasing, legal, and personnel, shall ~~are~~ be not  
 1074 included;

1075 (b) ~~Effective October 1, 1978,~~ The member must be employed  
 1076 as a firefighter and be certified, or required to be certified,  
 1077 in compliance with s. 633.35 and be employed solely within the  
 1078 fire department of a local government employer or an agency of  
 1079 state government with firefighting responsibilities. In  
 1080 addition, the member's duties and responsibilities must include  
 1081 on-the-scene fighting of fires; ~~as of October 1, 2001,~~ fire  
 1082 prevention, or firefighter training; ~~as of October 1, 2001,~~  
 1083 direct supervision of firefighting units, fire prevention, or  
 1084 firefighter training; or ~~as of July 1, 2001,~~ aerial firefighting  
 1085 surveillance performed by fixed-wing aircraft pilots employed by  
 1086 the Division of Forestry of the Department of Agriculture and  
 1087 Consumer Services; or the member must be the supervisor or  
 1088 command officer of a member or members who have such  
 1089 responsibilities; provided, however, administrative support  
 1090 personnel, including, but not limited to, those whose primary  
 1091 duties and responsibilities are in accounting, purchasing,  
 1092 legal, and personnel, shall ~~are~~ not be included and further

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1093 provided that all periods of creditable service in fire  
 1094 prevention or firefighter training, or as the supervisor or  
 1095 command officer of a member or members who have such  
 1096 responsibilities, and for which the employer paid the special  
 1097 risk contribution rate, shall be ~~are~~ included;

1098 (c) ~~Effective October 1, 1978,~~ The member must be employed  
 1099 as a correctional officer and be certified, or required to be  
 1100 certified, in compliance with s. 943.1395. In addition, the  
 1101 member's primary duties and responsibilities must be the  
 1102 custody, and physical restraint when necessary, of prisoners or  
 1103 inmates within a prison, jail, or other criminal detention  
 1104 facility, or while on work detail outside the facility, or while  
 1105 being transported; ~~or as of July 1, 1984,~~ the member must be the  
 1106 supervisor or command officer of a member or members who have  
 1107 such responsibilities; provided, however, administrative  
 1108 support personnel, including, but not limited to, those whose  
 1109 primary duties and responsibilities are in accounting,  
 1110 purchasing, legal, and personnel, shall ~~are~~ not be included;  
 1111 however, wardens and assistant wardens, as defined by rule,  
 1112 shall participate in the Special Risk Class ~~are included;~~

1113 (d) ~~Effective October 1, 1999,~~ The member must be employed  
 1114 by a licensed Advance Life Support (ALS) or Basic Life Support  
 1115 (BLS) employer as an emergency medical technician or a paramedic  
 1116 and be certified in compliance with s. 401.27. In addition, the  
 1117 member's primary duties and responsibilities must include on-  
 1118 the-scene emergency medical care or ~~as of October 1, 2001,~~  
 1119 direct supervision of emergency medical technicians or  
 1120 paramedics, or the member must be the supervisor or command



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1121 officer of one or more members who have such responsibility.  
1122 However, administrative support personnel, including, but not  
1123 limited to, those whose primary responsibilities are in  
1124 accounting, purchasing, legal, and personnel, shall ~~are~~ not be  
1125 included;

1126 (e) ~~Effective January 1, 2001,~~ The member must be employed  
1127 as a community-based correctional probation officer and be  
1128 certified, or required to be certified, in compliance with s.  
1129 943.1395. In addition, the member's primary duties and  
1130 responsibilities must be the supervised custody, surveillance,  
1131 control, investigation, and counseling of assigned inmates,  
1132 probationers, parolees, or community controllees within the  
1133 community; or the member must be the supervisor of a member or  
1134 members who have such responsibilities. Administrative support  
1135 personnel, including, but not limited to, those whose primary  
1136 duties and responsibilities are in accounting, purchasing, legal  
1137 services, and personnel management, shall ~~are~~ not be included;  
1138 however, probation and parole circuit and deputy circuit  
1139 administrators shall participate in the Special Risk Class ~~are~~  
1140 included;

1141 (f) ~~Effective January 1, 2001,~~ The member must be employed  
1142 in one of the following classes and must spend at least 75  
1143 percent of his or her time performing duties which involve  
1144 contact with patients or inmates in a correctional or forensic  
1145 facility or institution:

- 1146 1. Dietitian (class codes 5203 and 5204);
- 1147 2. Public health nutrition consultant (class code 5224);
- 1148 3. Psychological specialist (class codes 5230 and 5231);

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- 1149 | 4. Psychologist (class code 5234);
- 1150 | 5. Senior psychologist (class codes 5237 and 5238);
- 1151 | 6. Regional mental health consultant (class code 5240);
- 1152 | 7. Psychological Services Director—DCF (class code 5242);
- 1153 | 8. Pharmacist (class codes 5245 and 5246);
- 1154 | 9. Senior pharmacist (class codes 5248 and 5249);
- 1155 | 10. Dentist (class code 5266);
- 1156 | 11. Senior dentist (class code 5269);
- 1157 | 12. Registered nurse (class codes 5290 and 5291);
- 1158 | 13. Senior registered nurse (class codes 5292 and 5293);
- 1159 | 14. Registered nurse specialist (class codes 5294 and
- 1160 | 5295);
- 1161 | 15. Clinical associate (class codes 5298 and 5299);
- 1162 | 16. Advanced registered nurse practitioner (class codes
- 1163 | 5297 and 5300);
- 1164 | 17. Advanced registered nurse practitioner specialist
- 1165 | (class codes 5304 and 5305);
- 1166 | 18. Registered nurse supervisor (class codes 5306 and
- 1167 | 5307);
- 1168 | 19. Senior registered nurse supervisor (class codes 5308
- 1169 | and 5309);
- 1170 | 20. Registered nursing consultant (class codes 5312 and
- 1171 | 5313);
- 1172 | 21. Quality management program supervisor (class code
- 1173 | 5314);
- 1174 | 22. Executive nursing director (class codes 5320 and
- 1175 | 5321);
- 1176 | 23. Speech and hearing therapist (class code 5406); or

1177           24. Pharmacy manager (class code 5251);  
 1178           (g) ~~Effective July 1, 2001,~~ The member must be employed as  
 1179 a youth custody officer and be certified, or required to be  
 1180 certified, in compliance with s. 943.1395. In addition, the  
 1181 member's primary duties and responsibilities must be the  
 1182 supervised custody, surveillance, control, investigation,  
 1183 apprehension, arrest, and counseling of assigned juveniles  
 1184 within the community;

1185           (h) Effective October 1, 2005, through June 30, 2008, the  
 1186 member must be employed by a law enforcement agency or medical  
 1187 examiner's office in a forensic discipline recognized by the  
 1188 International Association for Identification and must qualify  
 1189 for active membership in the International Association for  
 1190 Identification. The member's primary duties and responsibilities  
 1191 must include the collection, examination, preservation,  
 1192 documentation, preparation, or analysis of physical evidence or  
 1193 testimony, or both, or the member must be the direct supervisor,  
 1194 quality management supervisor, or command officer of one or more  
 1195 individuals with such responsibility. Administrative support  
 1196 personnel, including, but not limited to, those whose primary  
 1197 responsibilities are clerical or in accounting, purchasing,  
 1198 legal, and personnel, shall ~~are~~ not be included;

1199           (i) Effective July 1, 2008, the member must be employed by  
 1200 the Department of Law Enforcement in the crime laboratory or by  
 1201 the Division of State Fire Marshal in the forensic laboratory in  
 1202 one of the following classes:

- 1203           1. Forensic technologist (class code 8459);
- 1204           2. Crime laboratory technician (class code 8461);

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1205 3. Crime laboratory analyst (class code 8463);  
 1206 4. Senior crime laboratory analyst (class code 8464);  
 1207 5. Crime laboratory analyst supervisor (class code 8466);  
 1208 6. Forensic chief (class code 9602); or  
 1209 7. Forensic services quality manager (class code 9603);  
 1210 (j) Effective July 1, 2008, the member must be employed by  
 1211 a local government law enforcement agency or medical examiner's  
 1212 office and must spend at least 65 percent of his or her time  
 1213 performing duties that involve the collection, examination,  
 1214 preservation, documentation, preparation, or analysis of human  
 1215 tissues or fluids or physical evidence having potential  
 1216 biological, chemical, or radiological hazard or contamination,  
 1217 or use chemicals, processes, or materials that may have  
 1218 carcinogenic or health-damaging properties in the analysis of  
 1219 such evidence, or the member must be the direct supervisor of  
 1220 one or more individuals having such responsibility. If a special  
 1221 risk member changes to another position within the same agency,  
 1222 he or she must submit a complete application as provided in  
 1223 paragraph (3)~~(4)~~(a); or  
 1224 (k) The member must have already qualified for and be  
 1225 actively participating in special risk membership under  
 1226 paragraph (a), paragraph (b), or paragraph (c), must have  
 1227 suffered a qualifying injury as defined in this paragraph, must  
 1228 not be receiving disability retirement benefits as provided in  
 1229 s. 121.091(4), and must satisfy the requirements of this  
 1230 paragraph.  
 1231 1. The ability to qualify for the class of membership  
 1232 defined in s. 121.021(15)(f) shall occur ~~paragraph (2)(f) occurs~~

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1233 when two licensed medical physicians, one of whom is a primary  
1234 treating physician of the member, certify the existence of the  
1235 physical injury and medical condition that constitute a  
1236 qualifying injury as defined in this paragraph and that the  
1237 member has reached maximum medical improvement after August 1,  
1238 2008. The certifications from the licensed medical physicians  
1239 must include, at a minimum, that the injury to the special risk  
1240 member has resulted in a physical loss, or loss of use, of at  
1241 least two of the following: left arm, right arm, left leg, or  
1242 right leg; and:

1243 a. That this physical loss or loss of use is total and  
1244 permanent, except in the event that the loss of use is due to a  
1245 physical injury to the member's brain, in which event the loss  
1246 of use is permanent with at least 75 percent loss of motor  
1247 function with respect to each arm or leg affected.

1248 b. That this physical loss or loss of use renders the  
1249 member physically unable to perform the essential job functions  
1250 of his or her special risk position.

1251 c. That, notwithstanding this physical loss or loss of  
1252 use, the individual is able to perform the essential job  
1253 functions required by the member's new position, as provided in  
1254 subparagraph 3.

1255 d. That use of artificial limbs is either not possible or  
1256 does not alter the member's ability to perform the essential job  
1257 functions of the member's position.

1258 e. That the physical loss or loss of use is a direct  
1259 result of a physical injury and not a result of any mental,  
1260 psychological, or emotional injury.

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1261           2. For the purposes of this paragraph, "qualifying injury"  
1262 means an injury sustained in the line of duty, as certified by  
1263 the member's employing agency, by a special risk member that  
1264 does not result in total and permanent disability as defined in  
1265 s. 121.091(4)(b). An injury is a qualifying injury when ~~if~~ the  
1266 injury is a physical injury to the member's physical body  
1267 resulting in a physical loss, or loss of use, of at least two of  
1268 the following: left arm, right arm, left leg, or right leg.  
1269 Notwithstanding anything in ~~any other provision of~~ this section  
1270 to the contrary, an injury that would otherwise qualify as a  
1271 qualifying injury shall ~~is~~ not be considered a qualifying injury  
1272 if and when the member ceases employment with the employer for  
1273 whom he or she was providing special risk services on the date  
1274 the injury occurred.

1275           3. The new position, as described in sub-subparagraph  
1276 1.c., that is required for qualification as a special risk  
1277 member under this paragraph is not required to be a position  
1278 with essential job functions that entitle an individual to  
1279 special risk membership. Whether a new position as described in  
1280 sub-subparagraph 1.c. exists and is available to the special  
1281 risk member is a decision to be made solely by the employer in  
1282 accordance with its hiring practices and applicable law.

1283           4. This paragraph does not grant or create additional  
1284 rights for any individual to continued employment or to be hired  
1285 or rehired by his or her employer that are not already provided  
1286 within the Florida Statutes, the State Constitution, the  
1287 Americans with Disabilities Act, if applicable, or any other  
1288 applicable state or federal law.

1289            (3)~~(4)~~ PROCEDURE FOR DESIGNATING.—  
 1290            (a) Any member of the Florida Retirement System employed  
 1291 by a county, city ~~municipality~~, or special district who feels  
 1292 that he or she ~~his or her position~~ meets the criteria set forth  
 1293 in this section for membership in the Special Risk Class may  
 1294 request that his or her employer submit an application to the  
 1295 department requesting that the department designate him or her  
 1296 as a Special Risk member. If the employer agrees that the member  
 1297 meets the requirements for Special Risk ~~Class~~ membership, the  
 1298 employer shall submit an application to the department on behalf  
 1299 of the employee containing a certification that the member meets  
 1300 the criteria for Special Risk ~~Class~~ membership set forth in this  
 1301 section and such other supporting documentation as may be  
 1302 required by administrative rule. The department shall, within 90  
 1303 days, either designate or refuse to designate the member as a  
 1304 special risk member. If the employer declines to submit the  
 1305 member's application to the department or if the department does  
 1306 not designate the member as a special risk member, the member or  
 1307 the employer may appeal to the State Retirement Commission, as  
 1308 provided in s. 121.23, for designation as a special risk member.  
 1309 A member who receives a final affirmative ruling pursuant to  
 1310 such appeal for Special Risk membership shall have Special Risk  
 1311 ~~Class~~ membership retroactive to the date such member would have  
 1312 had Special Risk ~~Class~~ membership had such membership been  
 1313 approved by the employer and the department, as determined by  
 1314 the department, and the employer contributions shall be paid in  
 1315 full within 1 year after such final ruling.  
 1316            (b)1. Applying the criteria set forth in this section, the

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1317 Department of Management Services shall specify which current  
 1318 and newly created classes of positions under the uniform  
 1319 classification plan established pursuant to chapter 110 entitle  
 1320 the incumbents of positions in those classes to membership in  
 1321 the Special Risk Class. Only employees employed in the classes  
 1322 so specified shall be special risk members.

1323 2. When ~~If~~ a class is not specified by the department as  
 1324 provided in subparagraph 1., the employing agency may petition  
 1325 the State Retirement Commission for approval in accordance with  
 1326 s. 121.23.

1327 (4) ~~(5)~~ REMOVAL OF SPECIAL RISK ~~CLASS~~ MEMBERSHIP.—

1328 (a) Any member who is a special risk member on October 1,  
 1329 1978, and who fails to meet the criteria for Special Risk ~~Class~~  
 1330 membership established by this section shall have his or her  
 1331 special risk designation removed and thereafter shall be a  
 1332 regular member and shall earn only regular membership credit.  
 1333 The department shall have the authority to ~~may~~ review the  
 1334 special risk designation of members to determine whether or not  
 1335 those members continue to meet the criteria for Special Risk  
 1336 ~~Class~~ membership.

1337 (b) Any member who is a special risk member on July 1,  
 1338 2008, and who became eligible to participate under paragraph  
 1339 (2) ~~(3)~~ (h) but fails to meet the criteria for Special Risk ~~Class~~  
 1340 membership established by paragraph (2) ~~(3)~~ (i) or paragraph  
 1341 (2) ~~(3)~~ (j) shall have his or her special risk designation removed  
 1342 and thereafter shall be a Regular Class member and earn only  
 1343 Regular Class membership credit. The department may review the  
 1344 special risk designation of members to determine whether or not



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1345 those members continue to meet the criteria for Special Risk  
 1346 ~~Class~~ membership.

1347 (5)~~(6)~~ CREDIT FOR PAST SERVICE.—A special risk member may  
 1348 purchase retirement credit in the Special Risk Class based upon  
 1349 past service, and may upgrade retirement credit for such past  
 1350 service, to the extent of 2 percent of the member's average  
 1351 monthly compensation as specified in s. 121.091(1)(a) for such  
 1352 service as follows:

1353 (a) The member may purchase special risk credit for past  
 1354 service with a city ~~municipality~~ or special district which has  
 1355 elected to join the Florida Retirement System, or with a  
 1356 participating agency to which a member's governmental unit was  
 1357 transferred, merged, or consolidated as provided in s.  
 1358 121.081(1)(f), if the member was employed with the city  
 1359 ~~municipality~~ or special district at the time it commenced  
 1360 participating in the Florida Retirement System or with the  
 1361 governmental unit at the time of its transfer, merger, or  
 1362 consolidation with the participating agency. The service must  
 1363 satisfy the criteria set forth in subsection (2) ~~(3)~~ for Special  
 1364 Risk ~~Class~~ membership as a law enforcement officer, firefighter,  
 1365 or correctional officer; however, no ~~a~~ certificate or waiver of  
 1366 certificate of compliance with s. 943.1395 or s. 633.35 shall be  
 1367 ~~is not~~ required for such service.

1368 (b) Contributions for upgrading the additional special  
 1369 risk credit pursuant to this subsection shall ~~must~~ be equal to  
 1370 the difference in the ~~employer and, if applicable, employee~~  
 1371 contributions paid and the special risk percentage rate of gross  
 1372 salary in effect at the time of purchase for the period being

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1373 | claimed, plus interest thereon at the rate of 4 percent a year  
 1374 | compounded annually from the date of such service until July 1,  
 1375 | 1975, and 6.5 percent a year thereafter until the date of  
 1376 | payment. This past service may be purchased by the member or by  
 1377 | the employer on behalf of the member.

1378 |       (6)~~(7)~~ CREDIT FOR PRIOR SERVICE.—A special risk member who  
 1379 | has creditable service with an employer under chapter 122 or  
 1380 | chapter 321, or was employed as a correctional counselor with  
 1381 | the Department of Corrections between December 1, 1970, and  
 1382 | September 30, 1979, in a position which ~~that~~ satisfies the  
 1383 | criteria provided for in subsection (2) ~~(3)~~ for Special Risk  
 1384 | ~~Class~~ membership except the requirement for a certificate or  
 1385 | waiver of certificate, shall have those years of service counted  
 1386 | towards the attainment of the normal retirement date as a  
 1387 | special risk member under this chapter. The percentage value of  
 1388 | each such year of creditable service under chapter 122, chapter  
 1389 | 321, or as a correctional counselor shall ~~may~~ not change as a  
 1390 | result of the application of this subsection. A special risk  
 1391 | member who has taken a refund of contributions for such  
 1392 | creditable service under chapter 122 or chapter 321 and has  
 1393 | reclaimed it as prior service credit under this chapter shall be  
 1394 | permitted to have such creditable service counted towards the  
 1395 | attainment of the normal retirement date for the Special Risk  
 1396 | Class of membership under this chapter.

1397 |       (7)~~(8)~~ RETENTION OF SPECIAL RISK NORMAL RETIREMENT DATE  
 1398 | ~~SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS.—~~

1399 |       (a) A special risk member who is moved or reassigned to a  
 1400 | nonspecial risk law enforcement, firefighting, correctional, or

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1401 emergency medical care administrative support position with the  
 1402 same agency, or who is subsequently employed in such a position  
 1403 with ~~within~~ any law enforcement, firefighting, correctional, or  
 1404 emergency medical care agency under the Florida Retirement  
 1405 System, shall participate in the Special Risk Administrative  
 1406 Support Class and shall earn credit for such service at the same  
 1407 percentage rate as that earned by a regular member.

1408 Notwithstanding the provisions of subsection (4) ~~(5)~~, service in  
 1409 such an administrative support position shall, for purposes of  
 1410 s. 121.091, apply ~~applies~~ toward satisfaction of the special  
 1411 risk normal retirement date, as defined in s. 121.021 (29) (b)  
 1412 provided that, ~~if~~, while in such position, the member remains  
 1413 certified as a law enforcement officer, firefighter,  
 1414 correctional officer, emergency medical technician, or  
 1415 paramedic; remains subject to reassignment at any time to a  
 1416 position qualifying for special risk membership; and completes  
 1417 an aggregate of 6 or more ~~the~~ years of service as a designated  
 1418 special risk member prior to ~~before~~ retirement ~~which is equal to~~  
 1419 ~~or greater than the years of service required to be vested.~~

1420 (b) Upon application by a member, the provisions of this  
 1421 subsection shall apply, with respect to such member,  
 1422 retroactively to October 1, 1978, provided that ~~if~~ the member  
 1423 was removed from the Special Risk Class effective October 1,  
 1424 1978, due to a change in special risk criteria as a result of  
 1425 the enactment of chapter 78-308, Laws of Florida, or was  
 1426 reassigned or employed for training or career development or to  
 1427 fill a critical agency need.

1428 (c) The department shall adopt such rules as are required

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1429 to administer this subsection.

1430 (d) Notwithstanding any ~~other~~ provision of this subsection  
 1431 to the contrary, this subsection does not apply to any special  
 1432 risk member who qualifies for continued membership pursuant to  
 1433 the provisions of paragraph (2)~~(3)~~(k).

1434 (8)~~(9)~~ RESTORATION OF SPECIAL RISK CREDIT FOR SPECIFIED  
 1435 PERIOD OF EMPLOYMENT.—A special risk member who was removed from  
 1436 the Special Risk Class effective October 1978, for the sole  
 1437 reason that he or she did not possess the required certificate  
 1438 or temporary waiver of certificate, and who obtained  
 1439 certification and was approved for Special Risk ~~Class~~ membership  
 1440 on or before June 30, 1982, shall be permitted to ~~may~~ have  
 1441 special risk credit restored for that period upon:

1442 (a) Certification by his or her employer that all  
 1443 requirements for Special Risk ~~Class~~ membership except the  
 1444 requirement for certification or temporary waiver of  
 1445 certification were met; and

1446 (b) Payment of contributions equal to the difference in  
 1447 the contributions that were paid during the period and the  
 1448 contributions required for special risk members during that  
 1449 period, plus 6.5 percent interest thereon, compounded each June  
 1450 30 from date of service until date of payment.

1451  
 1452 This credit may be purchased by the member or by the employer on  
 1453 behalf of the member.

1454 (9)~~(10)~~ CREDIT FOR UPGRADED SERVICE.—

1455 (a) Any member of the Special Risk Class who has earned  
 1456 creditable service ~~through September 30, 1999,~~ in another

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1457 membership class of the Florida Retirement System as an  
1458 emergency medical technician or paramedic, which service is  
1459 within the purview of the Special Risk Class, may purchase  
1460 additional retirement credit to upgrade such service to Special  
1461 Risk Class service, to the extent of the percentages of the  
1462 member's average final compensation provided in s.

1463 121.091(1)(a)2. Contributions for upgrading such service to  
1464 Special Risk Class credit under this subsection shall ~~must~~ be  
1465 equal to the difference in the contributions paid and the  
1466 Special Risk Class contribution rate as a percentage of gross  
1467 salary in effect for the period being claimed, plus interest  
1468 thereon at the rate of 6.5 percent a year, compounded annually  
1469 until the date of payment. This service credit may be purchased  
1470 by the employer on behalf of the member.

1471 (b) Any member of the Special Risk Class who has earned  
1472 creditable service ~~through September 30, 2001,~~ in another  
1473 membership class of the Florida Retirement System whose  
1474 responsibilities included fire prevention or firefighter  
1475 training, which service is within the purview of the Special  
1476 Risk Class, may purchase additional retirement credit to upgrade  
1477 such service to Special Risk Class service, to the extent of the  
1478 percentages of the member's average final compensation provided  
1479 in s. 121.091(1)(a)2. Contributions for upgrading such service  
1480 to Special Risk Class credit under this subsection shall ~~must~~ be  
1481 equal to the difference in the contributions paid and the  
1482 Special Risk Class contribution rate as a percentage of gross  
1483 salary in effect for the period being claimed, plus interest  
1484 thereon at the rate of 6.5 percent a year, compounded annually

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1485 until the date of payment. This service credit may be purchased  
1486 by the employer on behalf of the member.

1487 (c) Any member of the Special Risk Class who has earned  
1488 creditable service ~~through June 30, 2008,~~ in another membership  
1489 class of the Florida Retirement System in a position with the  
1490 Department of Law Enforcement or the Division of State Fire  
1491 Marshal and became covered by the Special Risk Class as  
1492 described in paragraph (2) ~~(3)~~ (i), or with a local government law  
1493 enforcement agency or medical examiner's office and became  
1494 covered by the Special Risk Class as described in paragraph  
1495 (2) ~~(3)~~ (j), which service is within the purview of the Special  
1496 Risk Class, and is employed in such position on or after July 1,  
1497 2008, may purchase additional retirement credit to upgrade such  
1498 service to Special Risk Class service, to the extent of the  
1499 percentages of the member's average final compensation provided  
1500 in s. 121.091(1)(a)2. The cost for such credit shall ~~must~~ be an  
1501 amount representing the actuarial accrued liability for the  
1502 difference in accrual value during the affected period of  
1503 service. The cost shall be calculated using the discount rate  
1504 and other relevant actuarial assumptions that were used to value  
1505 the Florida Retirement System Defined Benefit Pension ~~Pension~~ Plan  
1506 liabilities in the most recent actuarial valuation. The division  
1507 shall ensure that the transfer sum is prepared using a formula  
1508 and methodology certified by an enrolled actuary. The cost must  
1509 be paid immediately upon notification by the division. The local  
1510 government employer may purchase the upgraded service credit on  
1511 behalf of the member if the member has been employed by that  
1512 employer for at least 3 years.

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CODING: Words stricken are deletions; words underlined are additions.

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1513 Section 9. Paragraphs (a) and (d) of subsection (4),  
 1514 paragraphs (b), (c), and (d) of subsection (7), and subsections  
 1515 (8) and (10) of section 121.052, Florida Statutes, are amended  
 1516 to read:

1517 121.052 Membership class of elected officers.—

1518 (4) PARTICIPATION BY ELECTED OFFICERS SERVING A SHORTENED  
 1519 TERM DUE TO APPORTIONMENT, FEDERAL INTERVENTION, ETC.—

1520 (a) Any ~~A~~ duly elected officer whose term of office was  
 1521 shortened by legislative or judicial apportionment pursuant to  
 1522 the provisions of s. 16, Art. III of the State Constitution may,  
 1523 after the term of office to which he or she was elected is  
 1524 completed, pay into the ~~Florida Retirement~~ System Trust Fund the  
 1525 amount of contributions that would have been made by ~~the officer~~  
 1526 ~~or~~ the officer's employer on his or her behalf, plus 4 percent  
 1527 interest compounded annually from the date he or she left office  
 1528 until July 1, 1975, and 6.5 percent interest compounded annually  
 1529 thereafter, and may receive service credit for the length of  
 1530 time the officer would have served if such term had not been  
 1531 shortened by apportionment.

1532 (d)1. Any justice or judge, or any retired justice or  
 1533 judge who retired before July 1, 1993, who has attained the age  
 1534 of 70 years and who is prevented under s. 8, Art. V of the State  
 1535 Constitution from completing his or her term of office because  
 1536 of age may elect to purchase credit for all or a portion of the  
 1537 months he or she would have served during the remainder of the  
 1538 term of office but, ~~however~~, he or she may claim those months  
 1539 only after the date the service would have occurred. The justice  
 1540 or judge must pay into the ~~Florida Retirement~~ System Trust Fund

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1541 the amount of contributions that would have been made by the  
 1542 employer on his or her behalf for the period of time being  
 1543 claimed, plus 6.5 percent interest thereon compounded each June  
 1544 30 from the date he or she left office, in order to receive  
 1545 service credit in this class for the period of time being  
 1546 claimed. After the date the service would have occurred, and  
 1547 upon payment of the required contributions, the retirement  
 1548 benefit of a retired justice or judge will ~~shall~~ be adjusted  
 1549 prospectively to include this ~~the~~ additional creditable service;  
 1550 however, such adjustment may be made only once.

1551 2. Any justice or judge who does not seek election to a  
 1552 subsequent term of office because he or she would be prevented  
 1553 under s. 8, Art. V of the State Constitution from completing  
 1554 such term of office upon attaining the age of 70 years may elect  
 1555 to purchase service credit for service as a temporary judge as  
 1556 assigned by the court if the temporary assignment follows  
 1557 immediately ~~follows~~ the last full term of office served and the  
 1558 purchase is limited to the number of months of service needed to  
 1559 vest retirement benefits. To receive retirement credit for such  
 1560 temporary service beyond termination, the justice or judge must  
 1561 pay into the ~~Florida Retirement~~ System Trust Fund the amount of  
 1562 contributions that would have been made by the ~~justice or judge~~  
 1563 ~~and the~~ employer on his or her behalf had he or she continued in  
 1564 office for the period of time being claimed, plus 6.5 percent  
 1565 interest thereon compounded each June 30 from the date he or she  
 1566 left office.

1567 (7) CONTRIBUTIONS.—

1568 (b) The employer paying the salary of a member of the



1569 Elected Officers' Class shall contribute an amount as specified  
 1570 in this subsection or s. 121.71, as appropriate, which shall  
 1571 constitute the entire employer retirement contribution with  
 1572 respect to such member. The employer shall also withhold one-  
 1573 half of the entire contribution of the member required for  
 1574 social security coverage. ~~Effective July 1, 2011, each member of~~  
 1575 ~~the Elected Officers' Class shall pay employee contributions as~~  
 1576 ~~specified in s. 121.71.~~

1577 ~~(c) If a member of the Elected Officers' Class ceases to~~  
 1578 ~~fill an office covered by this class for 3 calendar months for~~  
 1579 ~~any reason other than retirement and has not been employed in~~  
 1580 ~~any capacity with any participating employer for 3 calendar~~  
 1581 ~~months, the member may receive a refund of all contributions he~~  
 1582 ~~or she has made to the pension plan, subject to the restrictions~~  
 1583 ~~otherwise provided in this chapter. Partial refunds are not~~  
 1584 ~~permitted. The refund shall not include any interest earnings on~~  
 1585 ~~the contributions for a member of the pension plan. Employer~~  
 1586 ~~contributions made on behalf of the member are not refundable. A~~  
 1587 ~~member may not receive a refund of employee contributions if a~~  
 1588 ~~pending or an approved qualified domestic relations order is~~  
 1589 ~~filed against the member's retirement account. By obtaining a~~  
 1590 ~~refund of contributions, a member waives all rights under the~~  
 1591 ~~Florida Retirement System and the health insurance subsidy~~  
 1592 ~~provided under s. 112.363 to the service credit represented by~~  
 1593 ~~the refunded contributions, except the right to purchase his or~~  
 1594 ~~her prior service credit in accordance with s. 121.081(2).~~

1595 (c) ~~(d)~~ The following table states the required employer  
 1596 contribution on behalf of each member of the Elected Officers'

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1597 Class in terms of a percentage of the member's gross  
 1598 compensation. Such contribution constitutes the entire health  
 1599 insurance subsidy contribution with respect to each such member.  
 1600 A change in the contribution rate is effective with the first  
 1601 salary paid on or after the beginning date of the change. The  
 1602 retiree health insurance subsidy contribution rate is as  
 1603 follows:

1604	Dates of Contribution	Contribution
1605	Rate Changes	Rate
1606	October 1, 1987, through December 31, 1988	0.24%
1607	January 1, 1989, through December 31, 1993	0.48%
1608	January 1, 1994, through December 31, 1994	0.56%
1609	January 1, 1995, through June 30, 1998	0.66%
1610	July 1, 1998, through June 30, 2001	0.94%
1611	Effective July 1, 2001	1.11%

1612 Such contributions and accompanying payroll data are due and  
 1613 payable no later than the 5th working day of the month  
 1614 immediately following the month during which the payroll period  
 1615 ended and shall be deposited by the administrator in the Retiree  
 1616 Health Insurance Subsidy Trust Fund.

1617 (8) NORMAL RETIREMENT DATE; VESTING REQUIREMENT.—A member  
 1618 of the Elected Officers' Class shall have the same normal  
 1619 retirement date ~~and vesting requirement~~, as ~~those terms are~~  
 1620 defined in s. 121.021(29) ~~and (45)~~, for a member of the regular  
 1621 class of the Florida Retirement System. Any public service  
 1622 commissioner who was removed from the Elected State Officers'  
 1623 Class on July 1, 1979, after attaining at least 8 years of  
 1624 creditable service in that class shall be ~~is~~ considered to have  
 1625 reached the normal retirement date upon attaining age 62 as  
 1626 required in s. 121.021(29) (a).

1627 (10) ACCRUED SERVICE VALUE.—A member of the Elected  
 1628 Officers' Class who is a Supreme Court justice, district court  
 1629 of appeal judge, circuit judge, or county court judge shall  
 1630 receive judicial retirement credit of 3 1/3 percent of average  
 1631 final compensation, and all other members shall receive elected  
 1632 officer retirement credit ~~accrual value~~ of 3 percent of average  
 1633 final compensation, for each year of creditable service in such  
 1634 class.

1635 Section 10. Paragraph (a) of subsection (7) of section  
 1636 121.053, Florida Statutes, is amended to read:

1637 121.053 Participation in the Elected Officers' Class for  
 1638 retired members.—

1639 (7) A member who is elected or appointed to an elective  
 1640 office and who is participating in the Deferred Retirement  
 1641 Option Program is not subject to termination as defined in s.  
 1642 121.021, or reemployment limitations as provided in s.  
 1643 121.091(9), until the end of his or her current term of office  
 1644 or, if the officer is consecutively elected or reelected to an

1645 elective office eligible for coverage under the Florida  
 1646 Retirement System, until he or she no longer holds an elective  
 1647 office, as follows:

1648 (a) At the end of the 60-month DROP period:

1649 1. The officer's DROP account may not accrue additional  
 1650 monthly benefits, but does continue to earn interest as provided  
 1651 in s. 121.091(13). However, an officer whose DROP participation  
 1652 begins on or after July 1, 2010, may not continue to earn such  
 1653 interest.

1654 2. Retirement contributions, ~~except for unfunded actuarial~~  
 1655 ~~liability and health insurance subsidy contributions required in~~  
 1656 ~~ss. 121.71(5) and 121.76,~~ are not required of the employer of  
 1657 the elected officer, and additional retirement credit may not be  
 1658 earned under the Florida Retirement System.

1659 Section 11. Paragraphs (b) and (j) of subsection (1),  
 1660 paragraphs (b), (c), and (d) of subsection (3), paragraph (b) of  
 1661 subsection (4), and paragraphs (c), (d), and (e) of subsection  
 1662 (6) of section 121.055, Florida Statutes, are amended to read:

1663 121.055 Senior Management Service Class.—There is hereby  
 1664 established a separate class of membership within the Florida  
 1665 Retirement System to be known as the "Senior Management Service  
 1666 Class," which shall become effective February 1, 1987.

1667 (1)

1668 (b)1. Except as provided in subparagraph 2., effective  
 1669 January 1, 1990, participation in the Senior Management Service  
 1670 Class shall be ~~is~~ compulsory for the president of each community  
 1671 college, the manager of each participating city ~~municipality~~ or  
 1672 county, and all appointed district school superintendents.

1673 Effective January 1, 1994, additional positions may be  
 1674 designated for inclusion in the Senior Management Service Class  
 1675 of the Florida Retirement System, provided that ~~if~~:

1676 a. Positions to be included in the class shall be ~~are~~  
 1677 designated by the local agency employer. Notice of intent to  
 1678 designate positions for inclusion in the class shall ~~must~~ be  
 1679 published once a week for 2 consecutive weeks in a newspaper of  
 1680 general circulation published in the county or counties  
 1681 affected, as provided in chapter 50.

1682 b. Up to 10 nonelective full-time positions may be  
 1683 designated for each local agency employer reporting to the  
 1684 Department of Management Services; for local agencies with 100  
 1685 or more regularly established positions, additional nonelective  
 1686 full-time positions may be designated, not to exceed 1 percent  
 1687 of the regularly established positions within the agency.

1688 c. Each position added to the class must be a managerial  
 1689 or policymaking position filled by an employee who is not  
 1690 subject to continuing contract and serves at the pleasure of the  
 1691 local agency employer without civil service protection, and who:

- 1692 (I) Heads an organizational unit; or
- 1693 (II) Has responsibility to effect or recommend personnel,  
 1694 budget, expenditure, or policy decisions in his or her areas of  
 1695 responsibility.

1696 2. In lieu of participation in the Senior Management  
 1697 Service Class, members of the Senior Management Service Class~~7~~  
 1698 pursuant to the provisions of subparagraph 1.~~7~~ may withdraw from  
 1699 the Florida Retirement System altogether. The decision to  
 1700 withdraw from the Florida Retirement system shall be ~~is~~

1701 irrevocable for as long as the employee holds such a ~~the~~  
 1702 position. Any service creditable under the Senior Management  
 1703 Service Class shall be retained after the member withdraws from  
 1704 the Florida Retirement System; however, additional service  
 1705 credit in the Senior Management Service Class shall ~~may~~ not be  
 1706 earned after such withdrawal. Such members shall ~~are~~ not be  
 1707 eligible to participate in the Senior Management Service  
 1708 Optional Annuity Program.

1709 3. Effective January 1, 2006, through June 30, 2006, an  
 1710 employee who has withdrawn from the Florida Retirement System  
 1711 under subparagraph 2. has one opportunity to elect to  
 1712 participate in either the defined benefit program ~~pension plan~~  
 1713 or the Public Employee Optional Retirement Program of the  
 1714 Florida Retirement System ~~investment plan~~.

1715 a. If the employee elects to participate in the Public  
 1716 Employee Optional Retirement Program ~~investment plan~~, membership  
 1717 shall be prospective, and the applicable provisions of s.  
 1718 121.4501(4) shall govern the election.

1719 b. If the employee elects to participate in the defined  
 1720 benefit program of the Florida Retirement System ~~pension plan~~,  
 1721 the employee shall, upon payment to the system trust fund of the  
 1722 amount calculated under sub-sub-subparagraph (I), receive  
 1723 service credit for prior service based upon the time during  
 1724 which the employee had withdrawn from the system.

1725 (I) The cost for such credit shall be an amount  
 1726 representing the actuarial accrued liability for the affected  
 1727 period of service. The cost shall be calculated using the  
 1728 discount rate and other relevant actuarial assumptions that were

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1729 used to value the Florida Retirement System defined benefit  
 1730 ~~pension~~ plan liabilities in the most recent actuarial valuation.  
 1731 The calculation shall ~~must~~ include any service already  
 1732 maintained under the defined benefit ~~pension~~ plan in addition to  
 1733 the period of withdrawal. The actuarial accrued liability  
 1734 attributable to any service already maintained under the defined  
 1735 benefit ~~pension~~ plan shall be applied as a credit to the total  
 1736 cost resulting from the calculation. The division shall ~~must~~  
 1737 ensure that the transfer sum is prepared using a formula and  
 1738 methodology certified by an actuary.

1739 (II) The employee must transfer a sum representing the net  
 1740 cost owed for the actuarial accrued liability in sub-sub-  
 1741 subparagraph (I) immediately following the time of such  
 1742 movement, determined assuming that attained service equals the  
 1743 sum of service in the defined benefit program ~~pension plan~~ and  
 1744 the period of withdrawal.

1745 (j) Except as may otherwise be provided, any ~~a~~ member of  
 1746 the Senior Management Service Class may purchase additional  
 1747 retirement credit in such class for creditable service within  
 1748 the purview of the Senior Management Service Class retroactive  
 1749 to February 1, 1987, and may upgrade retirement credit for such  
 1750 service, to the extent of 2 percent of the member's average  
 1751 monthly compensation as specified in paragraph (4) (d) for such  
 1752 service. Contributions for upgrading the additional Senior  
 1753 Management Service credit pursuant to this paragraph shall ~~must~~  
 1754 be equal to the difference in the ~~employer and, if applicable,~~  
 1755 ~~employee~~ contributions paid and the Senior Management Service  
 1756 Class contribution rate as a percentage of gross salary in

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1757 effect for the period being claimed, plus interest thereon at  
1758 the rate of 6.5 percent a year, compounded annually until the  
1759 date of payment. This service credit may be purchased by the  
1760 employer on behalf of the member.

1761 (3)

1762 (b) The employer paying the salary of a member of the  
1763 Senior Management Service Class shall contribute an amount as  
1764 specified in this section or s. 121.71, as appropriate, which  
1765 shall constitute the entire employer retirement contribution  
1766 with respect to such member. The employer shall also withhold  
1767 one-half of the entire contribution of the member required for  
1768 social security coverage. ~~Effective July 1, 2011, each member~~  
1769 ~~shall pay employee contributions as specified in s. 121.71.~~

1770 ~~(c) Upon termination of employment from all participating~~  
1771 ~~employers for 3 calendar months for any reason other than~~  
1772 ~~retirement pursuant to s. 121.021(39)(c), a member may receive a~~  
1773 ~~refund of all contributions he or she has made to the pension~~  
1774 ~~plan, subject to the restrictions otherwise provided in this~~  
1775 ~~chapter. Partial refunds are not permitted. The refund shall not~~  
1776 ~~include any interest earnings on the contributions for a member~~  
1777 ~~of the pension plan. Employer contributions made on behalf of~~  
1778 ~~the member are not refundable. A member may not receive a refund~~  
1779 ~~of employee contributions if a pending or an approved qualified~~  
1780 ~~domestic relations order is filed against the member's~~  
1781 ~~retirement account. By obtaining a refund of contributions, a~~  
1782 ~~member waives all rights under the Florida Retirement System and~~  
1783 ~~the health insurance subsidy provided under s. 112.363 to the~~  
1784 ~~service credit represented by the refunded contributions, except~~



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1785 ~~the right to purchase his or her prior service credit in~~  
 1786 ~~accordance with s. 121.081(2).~~

1787 (c)~~(d)~~ The following table states the required employer  
 1788 contribution on behalf of each member of the Senior Management  
 1789 Service Class in terms of a percentage of the member's gross  
 1790 compensation. Such contribution constitutes the entire health  
 1791 insurance subsidy contribution with respect to each such member.  
 1792 A change in the contribution rate is effective with the first  
 1793 salary paid on or after the beginning date of the change. The  
 1794 retiree health insurance subsidy contribution rate is as  
 1795 follows:

Dates of Contribution Rate Changes	Contribution Rate
October 1, 1987, through December 31, 1988	0.24%
January 1, 1989, through December 31, 1993	0.48%
January 1, 1994, through December 31, 1994	0.56%
January 1, 1995, through June 30, 1998	0.66%
July 1, 1998, through June 30, 2001	0.94%

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Effective July 1, 2001 1.11%

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Such contributions and accompanying payroll data are due and payable no later than the 5th working day of the month immediately after ~~following~~ the month during which the payroll period ended and shall be deposited by the administrator in the Retiree Health Insurance Subsidy Trust Fund.

(4)

(b) Service in an eligible position prior to ~~before~~ February 1, 1987, or after January 31, 1987, shall satisfy the requirement of attaining the normal retirement date as defined in s. 121.021(29) for a Senior Management Service Class member, provided if the employee is a member of the Senior Management Service Class after January 31, 1987. A member of this class who fails to complete 6 ~~the~~ years of creditable service ~~required for vesting~~ in an eligible position shall be required to ~~must~~ satisfy the requirements for the normal retirement date for a regular member as provided in s. 121.021(29) ~~and vesting as provided in s. 121.021(45).~~

(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 participation ~~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

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1831 make an election to participate in the optional annuity program  
 1832 by May 1, 1987, shall be deemed to have elected membership in  
 1833 the Senior Management Service Class.

1834 2. Except as provided in subparagraph 6., an employee who  
 1835 becomes eligible to participate in the optional annuity program  
 1836 by reason of initial employment commencing after February 1,  
 1837 1987, may, within 90 days after the date of commencing  
 1838 employment, elect to participate in the optional annuity  
 1839 program. Such election must be made in writing and filed with  
 1840 the personnel officer of the employer. An eligible employee who  
 1841 does not within 90 days after commencing employment elect to  
 1842 participate in the optional annuity program shall be deemed to  
 1843 have elected membership in the Senior Management Service Class.

1844 3. A person who is appointed to a position in the Senior  
 1845 Management Service Class and who is a member of an existing  
 1846 retirement system or the Special Risk or Special Risk  
 1847 Administrative Support Classes of the Florida Retirement System  
 1848 may elect to remain in such system or class in lieu of  
 1849 participation ~~participating~~ in the Senior Management Service  
 1850 Class or optional annuity program. Such election must be made in  
 1851 writing and filed with the department and the personnel officer  
 1852 of the employer within 90 days of ~~after~~ such appointment. Any ~~An~~  
 1853 eligible employee who fails to make an election to participate  
 1854 in the existing system, the Special Risk Class of the Florida  
 1855 Retirement System, the Special Risk Administrative Support Class  
 1856 of the Florida Retirement System, or the optional annuity  
 1857 program shall be deemed to have elected membership in the Senior  
 1858 Management Service Class.

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1859 4. Except as provided in subparagraph 5., an employee's  
1860 election to participate in the optional annuity program is  
1861 irrevocable if the employee continues to be employed in an  
1862 eligible position and continues to meet the eligibility  
1863 requirements set forth in this paragraph.

1864 5. Effective from July 1, 2002, through September 30,  
1865 2002, any ~~an~~ active employee in a regularly established position  
1866 who has elected to participate in the Senior Management Service  
1867 Optional Annuity Program has one opportunity to choose to move  
1868 from the Senior Management Service Optional Annuity Program to  
1869 the Florida Retirement System defined benefit program ~~System~~  
1870 ~~Pension Plan~~.

1871 a. The election must be made in writing and must be filed  
1872 with the department and the personnel officer of the employer  
1873 before October 1, 2002, or, in the case of an active employee  
1874 who is on a leave of absence on July 1, 2002, within 90 days  
1875 after the conclusion of the leave of absence. This election is  
1876 irrevocable.

1877 b. The employee shall receive service credit under the  
1878 defined benefit program of the Florida Retirement System ~~pension~~  
1879 ~~plan~~ equal to his or her years of service under the Senior  
1880 Management Service Optional Annuity Program. The cost for such  
1881 credit is the amount representing the present value of that  
1882 employee's accumulated benefit obligation for the affected  
1883 period of service.

1884 c. The employee must transfer the total accumulated  
1885 employer contributions and earnings on deposit in his or her  
1886 Senior Management Service Optional Annuity Program account. If

1887 the transferred amount is not sufficient to pay the amount due,  
 1888 the employee must pay a sum representing the remainder of the  
 1889 amount due. The employee may not retain any employer  
 1890 contributions or earnings thereon from the Senior Management  
 1891 Service Optional Annuity Program account.

1892 6. A retiree of a state-administered retirement system who  
 1893 is initially reemployed on or after July 1, 2010, may not renew  
 1894 membership in the Senior Management Service Optional Annuity  
 1895 Program.

1896 (d) *Contributions.*—

1897 1.~~a.~~ Through June 30, 2001, each employer shall contribute  
 1898 on behalf of each participant in ~~member of~~ the Senior Management  
 1899 Service Optional Annuity Program an amount equal to the normal  
 1900 cost portion of the employer retirement contribution which would  
 1901 be required if the participant ~~member~~ were a Senior Management  
 1902 Service Class member of the Florida Retirement System Defined  
 1903 Benefit Program ~~Pension Plan~~, plus the portion of the  
 1904 contribution rate required in s. 112.363(8) that would otherwise  
 1905 be assigned to the Retiree Health Insurance Subsidy Trust Fund.

1906 ~~b.~~ Effective July 1, 2001, ~~through June 30, 2011,~~ each  
 1907 employer shall contribute on behalf of each participant in  
 1908 ~~member of~~ the optional program an amount equal to 12.49 percent  
 1909 of the participant's ~~employee's~~ gross monthly compensation.

1910 ~~e.~~ ~~Effective July 1, 2011, each member of the optional~~  
 1911 ~~annuity program shall contribute an amount equal to the employee~~  
 1912 ~~contribution required under s. 121.71(3). The employer shall~~  
 1913 ~~contribute on behalf of such employee an amount equal to the~~  
 1914 ~~difference between 12.49 percent of the employee's gross monthly~~

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1915 ~~compensation and the amount equal to the employee's required~~  
1916 ~~contribution based on the employee's gross monthly compensation.~~

1917 ~~d.~~ The department shall deduct an amount approved by the  
1918 Legislature to provide for the administration of this program.  
1919 The payment of the contributions to the optional program which  
1920 is required by this subparagraph for each participant, ~~including~~  
1921 ~~contributions made by the employee,~~ shall be made by the  
1922 employer to the department, which shall forward the  
1923 contributions to the designated company or companies contracting  
1924 for payment of benefits for the participant member under the  
1925 program.

1926 2. Each employer shall contribute on behalf of each  
1927 participant in member of the Senior Management Service Optional  
1928 Annuity Program an amount equal to the unfunded actuarial  
1929 accrued liability portion of the employer contribution which  
1930 would be required for members of the Senior Management Service  
1931 Class in the Florida Retirement System. This contribution shall  
1932 be paid to the department for transfer to the Florida Retirement  
1933 System Trust Fund.

1934 3. An Optional Annuity Program Trust Fund shall be  
1935 established in the State Treasury and administered by the  
1936 department to make payments to provider companies on behalf of  
1937 the optional annuity program participants members, and to  
1938 transfer the unfunded liability portion of the state optional  
1939 annuity program contributions to the Florida Retirement System  
1940 Trust Fund.

1941 4. Contributions required for social security by each  
1942 employer and each participant employee, in the amount required

1943 | for social security coverage as now or hereafter may be provided  
 1944 | by the federal Social Security Act shall be maintained for each  
 1945 | participant in ~~member of~~ the Senior Management Service  
 1946 | retirement program and shall be ~~are~~ in addition to the  
 1947 | retirement contributions specified in this paragraph.

1948 |         5. Each participant in ~~member of~~ the Senior Management  
 1949 | Service Optional Annuity Program may contribute by way of salary  
 1950 | reduction or deduction a percentage amount of the participant's  
 1951 | ~~employee's~~ gross compensation not to exceed the percentage  
 1952 | amount contributed by the employer to the optional annuity  
 1953 | program. Payment of the participant's ~~employee's~~ contributions  
 1954 | shall be made by the employer to the department, which shall  
 1955 | forward the contributions to the designated company or companies  
 1956 | contracting for payment of benefits for the participant ~~member~~  
 1957 | under the program.

1958 |         (e) *Benefits.*—

1959 |         1. Benefits under the Senior Management Service Optional  
 1960 | Annuity Program are payable only to participants in ~~members of~~  
 1961 | the program, or their beneficiaries as designated by the  
 1962 | participant ~~member~~ in the contract with the provider company,  
 1963 | and must be paid by the designated company in accordance with  
 1964 | the terms of the annuity contract applicable to the participant  
 1965 | ~~member~~. A participant ~~member~~ must be terminated from all  
 1966 | employment relationships with Florida Retirement System  
 1967 | employers as provided in s. 121.021(39) ~~for 3 calendar months~~ to  
 1968 | begin receiving the employer-funded ~~and employee-funded~~ benefit.  
 1969 | ~~The member must meet the definition of termination in s.~~  
 1970 | ~~121.021(39) beginning the month after receiving a benefit,~~

1971 ~~including a distribution.~~ Benefits funded by employer ~~and~~  
 1972 ~~employee~~ contributions are payable under the terms of the  
 1973 contract to the participant member, his or her beneficiary, or  
 1974 his or her estate, in addition to:

1975 a. A lump-sum payment to the beneficiary upon the death of  
 1976 the participant member;

1977 b. A cash-out of a de minimis account upon the request of  
 1978 a former participant member who has been terminated for a  
 1979 minimum of 6 calendar months from the employment that entitled  
 1980 him or her to optional annuity program participation. Such cash-  
 1981 out must be a complete liquidation of the account balance with  
 1982 that company and is subject to the Internal Revenue Code;

1983 c. A mandatory distribution of a de minimis account of a  
 1984 former participant member who has been terminated for a minimum  
 1985 of 6 calendar months from the employment that entitled him or  
 1986 her to optional annuity program participation as authorized by  
 1987 the department; or

1988 d. A lump-sum direct rollover distribution whereby all  
 1989 accrued benefits, plus interest and investment earnings, are  
 1990 paid from the participant's ~~member's~~ account directly to the  
 1991 custodian of an eligible retirement plan, as defined in s.  
 1992 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
 1993 participant member.

1994 ~~2. Under the Senior Management Service Optional Annuity~~  
 1995 ~~Program, benefits, including employee contributions, are not~~  
 1996 ~~payable for employee hardships, unforeseeable emergencies,~~  
 1997 ~~loans, medical expenses, educational expenses, purchase of a~~  
 1998 ~~principal residence, payments necessary to prevent eviction or~~



1999 ~~foreclosure on an employee's principal residence, or any other~~  
 2000 ~~reason before termination from all employment relationships with~~  
 2001 ~~participating employers for 3 calendar months.~~

2002 2.3. The benefits payable to any person under the Senior  
 2003 Management Service Optional Annuity Program, and any  
 2004 contribution accumulated under such program, are not subject to  
 2005 assignment, execution, or attachment or to any legal process  
 2006 whatsoever.

2007 3.4. Except as provided in subparagraph 4.5., a  
 2008 participant member who terminates employment and receives a  
 2009 distribution, including a rollover or trustee-to-trustee  
 2010 transfer, funded by employer ~~and required employee~~ contributions  
 2011 shall be is deemed to be retired from a state-administered  
 2012 retirement system if the participant member is subsequently  
 2013 employed with an employer that participates in the Florida  
 2014 Retirement System.

2015 4.5. A participant member who receives optional annuity  
 2016 program benefits funded by employer ~~and employee~~ contributions  
 2017 as a mandatory distribution of a de minimis account authorized  
 2018 by the department is not considered a retiree.

2019  
 2020 As used in this paragraph, a "de minimis account" means an  
 2021 account with a provider company containing employer ~~and employee~~  
 2022 contributions and accumulated earnings of not more than \$5,000  
 2023 made under this chapter.

2024 Section 12. Subsection (2) of section 121.061, Florida  
 2025 Statutes, is amended to read:

2026 121.061 Funding.—

2027           (2) (a) Should any employer other than a state employer  
 2028 fail to make the retirement and social security contributions,  
 2029 both member and employer contributions, required by this  
 2030 chapter, then, upon request by the administrator, the Department  
 2031 of Revenue or the Department of Financial Services, as the case  
 2032 may be, shall deduct the amount owed by the employer from any  
 2033 funds to be distributed by it to the county, city ~~municipality~~,  
 2034 metropolitan planning organization, special district, or  
 2035 consolidated form of government. The amounts so deducted shall  
 2036 be transferred to the administrator for further distribution to  
 2037 the trust funds in accordance with this chapter.

2038           (b) Should any employer for whom the city ~~municipality~~ or  
 2039 county tax collector collects taxes, fail to make the retirement  
 2040 and social security contributions required by this chapter, the  
 2041 tax collector, at the request of the administrator and upon  
 2042 receipt of a certificate from the administrator showing the  
 2043 amount owed by the employer, shall deduct the amount so  
 2044 certified from any taxes collected for the employer and remit  
 2045 the amount to the administrator for further distribution to the  
 2046 trust funds in accordance with this chapter.

2047           (c) The governing body of each county, city ~~municipality~~,  
 2048 metropolitan planning organization, special district, or  
 2049 consolidated form of government participating under this chapter  
 2050 or the administrator, acting individually or jointly, is hereby  
 2051 authorized to file and maintain an action in the courts of the  
 2052 state to require any employer to remit any retirement or social  
 2053 security member contributions or employer matching payments due  
 2054 the retirement or social security trust funds under the

2055 provisions of this chapter.

2056 (d) Should the income of any constitutional fee officer,  
 2057 in any year, be insufficient to make the matching payments  
 2058 required by this chapter, the board of county commissioners  
 2059 shall provide such fee officer sufficient funds to make these  
 2060 required payments when due.

2061 Section 13. Subsections (2) and (5), paragraphs (c) and  
 2062 (d) of subsection (6), and subsection (7) of section 121.071,  
 2063 Florida Statutes, are amended to read:

2064 121.071 Contributions.—Contributions to the system shall  
 2065 be made as follows:

2066 (2) (a) Effective January 1, 1975, or October 1, 1975, as  
 2067 applicable, ~~and through June 30, 2011,~~ each employer shall  
 2068 accomplish ~~make~~ the contribution required by subsection (1) by a  
 2069 procedure in which no employee's gross salary shall be ~~is~~  
 2070 reduced. ~~Effective July 1, 2011, each employer and employee~~  
 2071 ~~shall pay retirement contributions as specified in s. 121.71.~~

2072 (b) Upon termination of employment ~~from all participating~~  
 2073 ~~employers for 3 calendar months for~~ any reason other than  
 2074 retirement ~~pursuant to s. 121.021(39)(e),~~ a member shall be  
 2075 entitled to ~~may receive~~ a full refund of the all contributions  
 2076 he or she has made prior or subsequent to participation in the  
 2077 noncontributory to the pension plan, subject to the restrictions  
 2078 otherwise provided in this chapter. ~~Partial refunds are not~~  
 2079 ~~permitted. The refund may not include any interest earnings on~~  
 2080 ~~the contributions for a member of the pension plan. Employer~~  
 2081 ~~contributions made on behalf of the member are not refundable. A~~  
 2082 ~~member may not receive a refund of employee contributions if a~~

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2083 ~~pending or an approved qualified domestic relations order is~~  
 2084 ~~filed against his or her retirement account. By obtaining a~~  
 2085 ~~refund of contributions, a member waives all rights under the~~  
 2086 ~~Florida Retirement System and the health insurance subsidy to~~  
 2087 ~~the service credit represented by the refunded contributions,~~  
 2088 ~~except the right to purchase his or her prior service credit in~~  
 2089 ~~accordance with s. 121.081(2).~~

2090 (5) Contributions made in accordance with subsections (1),  
 2091 (2), (3), and (4), and s. 121.71 shall be paid by the employer  
 2092 into the system trust funds in accordance with rules adopted by  
 2093 the administrator pursuant to chapter 120, except as may be  
 2094 otherwise specified herein. Effective July 1, 2002,  
 2095 contributions paid under subsections (1) and (4) and  
 2096 accompanying payroll data are due and payable no later than the  
 2097 5th working day of the month immediately after ~~following~~ the  
 2098 month during which the payroll period ended.

2099 (6)

2100 (c) By obtaining a refund of contributions, a member  
 2101 waives all rights under the Florida Retirement System ~~and the~~  
 2102 ~~health insurance subsidy as provided in s. 112.363 to the~~  
 2103 service credit represented by the refunded contributions, except  
 2104 the right to purchase his or her prior service credit in  
 2105 accordance with s. 121.081(2).

2106 ~~(d) If a member or former member of the pension plan~~  
 2107 ~~receives an invalid refund from the Florida Retirement System~~  
 2108 ~~Trust Fund, such person must repay the full amount of the~~  
 2109 ~~invalid refund, plus interest at 6.5 percent compounded annually~~  
 2110 ~~on each June 30 from the date of refund until full payment is~~

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2111 ~~made to the trust fund. The invalid refund must be repaid before~~  
 2112 ~~the member retires or, if applicable, transfers to the~~  
 2113 ~~investment plan.~~

2114 ~~(7) Before termination of employment, benefits, including~~  
 2115 ~~employee contributions, are not payable under the pension plan~~  
 2116 ~~for employee hardships, unforeseeable emergencies, loans,~~  
 2117 ~~medical expenses, educational expenses, purchase of a principal~~  
 2118 ~~residence, payments necessary to prevent eviction or foreclosure~~  
 2119 ~~on an employee's principal residence, or any other reason before~~  
 2120 ~~termination from all employment relationships with participating~~  
 2121 ~~employers.~~

2122 Section 14. Paragraphs (b) and (c) of subsection (1) and  
 2123 subsection (2) of section 121.081, Florida Statutes, are amended  
 2124 to read:

2125 121.081 Past service; prior service; contributions.—  
 2126 Conditions under which past service or prior service may be  
 2127 claimed and credited are:

2128 (1)

2129 (b) Past service earned after January 1, 1975, may be  
 2130 claimed by officers or employees of a municipality, metropolitan  
 2131 planning organization, charter school, charter technical career  
 2132 center, or special district who become a covered group under  
 2133 this system. The governing body of a covered group may elect to  
 2134 provide benefits for past service earned after January 1, 1975,  
 2135 in accordance with this chapter, and the cost for such past  
 2136 service is established by applying the following formula: The  
 2137 employer shall contribute an amount equal to the ~~employer~~  
 2138 contribution rate in effect at the time the service was earned

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2139 ~~and, if applicable, the employee contribution rate,~~ multiplied  
2140 by the employee's gross salary for each year of past service  
2141 claimed, plus 6.5-percent ~~6.5 percent~~ interest thereon,  
2142 compounded annually, figured on ~~for~~ each year of past service,  
2143 with interest compounded from date of annual salary earned until  
2144 date of payment.

2145 (c) Should the employer ~~If an employer joins the Florida~~  
2146 ~~Retirement System and does~~ not elect to provide past service for  
2147 the member ~~at the time of joining,~~ then the member may claim and  
2148 pay same, ~~based on for the service as provided in~~ paragraphs (a)  
2149 and (b).

2150 (2) Prior service, as defined in s. 121.021(19), may be  
2151 claimed as creditable service under the Florida Retirement  
2152 System after a member has been reemployed for 1 complete year of  
2153 creditable service within a period of 12 consecutive months,  
2154 except as provided in paragraph (c). Service performed as a  
2155 participant ~~member~~ of the optional retirement program for the  
2156 State University System under s. 121.35 or the Senior Management  
2157 Service Optional Annuity Program under s. 121.055 may be used to  
2158 satisfy the reemployment requirement of 1 complete year of  
2159 creditable service. The member shall not be permitted to make  
2160 any contributions for prior service until after completion of  
2161 the 1 year of creditable service. If a member does not wish to  
2162 claim credit for all of his or her prior service, the service  
2163 the member claims must be the most recent period of service. The  
2164 required contributions for claiming the various types of prior  
2165 service are:

2166 (a) For prior service performed prior to ~~before~~ the date

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2167 the system becomes noncontributory for the member and for which  
2168 the member had credit under one of the existing retirement  
2169 systems and received a refund of contributions upon termination  
2170 of employment, the member shall contribute 4 percent of all  
2171 salary received during the period being claimed, plus 4-percent  
2172 ~~4-percent~~ interest compounded annually from date of refund until  
2173 July 1, 1975, and 6.5-percent ~~6.5-percent~~ interest compounded  
2174 annually thereafter, until full payment is made to the ~~Florida~~  
2175 Retirement ~~System~~ Trust Fund, and shall receive credit in the  
2176 Regular Class. A member who elected to transfer to the Florida  
2177 Retirement System from an existing system may receive credit for  
2178 prior service under the existing system if he or she was  
2179 eligible under the existing system to claim the prior service at  
2180 the time of the transfer. Contributions for such prior service  
2181 shall be determined by the applicable provisions of the system  
2182 under which the prior service is claimed and shall be paid by  
2183 the member, with matching contributions paid by the employer at  
2184 the time the service was performed. Effective July 1, 1978, the  
2185 account of a person who terminated under s. 238.05(3) may not be  
2186 charged interest for contributions that remained on deposit in  
2187 the Annuity Savings Trust Fund established under chapter 238,  
2188 upon retirement under this chapter or chapter 238.

2189 (b) For prior service performed prior to ~~before~~ the date  
2190 the system becomes noncontributory for the member and for which  
2191 the member had credit under the Florida Retirement System and  
2192 received a refund of contributions upon termination of  
2193 employment, the member shall contribute at the rate that was  
2194 required of him or her during the period of service being

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2195 | claimed, on all salary received during such period, plus 4-  
 2196 | percent ~~4-percent~~ interest compounded annually from date of  
 2197 | refund until July 1, 1975, and 6.5-percent ~~6.5-percent~~ interest  
 2198 | compounded annually thereafter, until the full payment is made  
 2199 | to the ~~Florida Retirement System~~ Trust Fund, and shall receive  
 2200 | credit in the membership class in which the member participated  
 2201 | during the period claimed.

2202 |         (c) For prior service as defined in s. 121.021(19) (b) and  
 2203 | (c) during which no contributions were made because the member  
 2204 | did not participate in a retirement system, the member shall  
 2205 | contribute 14.38 percent of all salary received during such  
 2206 | period or 14.38 percent of \$100 per month during such period,  
 2207 | whichever is greater, plus 4-percent ~~4-percent~~ interest  
 2208 | compounded annually from the first year of service claimed until  
 2209 | July 1, 1975, and 6.5-percent ~~6.5-percent~~ interest compounded  
 2210 | annually thereafter, until full payment is made to the  
 2211 | Retirement Trust Fund, and shall receive credit in the Regular  
 2212 | Class.

2213 |         (d) In order to claim credit for prior service as defined  
 2214 | in s. 121.021(19) (d) for which no retirement contributions were  
 2215 | paid during the period of such service, the member shall  
 2216 | contribute the total employee and employer contributions which  
 2217 | were required to be made to the Highway Patrol Pension Trust  
 2218 | Fund, as provided in chapter 321, during the period claimed,  
 2219 | plus 4-percent ~~4-percent~~ interest compounded annually from the  
 2220 | first year of service until July 1, 1975, and 6.5-percent ~~6.5-~~  
 2221 | ~~percent~~ interest compounded annually thereafter, until full  
 2222 | payment is made to the Retirement Trust Fund. However, any



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2223 governmental entity which ~~that~~ employed such member may elect to  
 2224 pay up to 50 percent of the contributions and interest required  
 2225 to purchase this ~~the~~ prior service credit. The service shall be  
 2226 credited in accordance with the provisions of the Highway Patrol  
 2227 Pension Plan in effect during the period claimed unless the  
 2228 member terminated and withdrew his or her retirement  
 2229 contributions and was thereafter enrolled in the State and  
 2230 County Officers and Employees' Retirement System or the Florida  
 2231 Retirement System, in which case the service shall be credited  
 2232 as Regular Class service.

2233 (e) For service performed under the Florida Retirement  
 2234 System after December 1, 1970, that ~~which~~ was never reported to  
 2235 the division or the department due to error, retirement credit  
 2236 may be claimed by a member of the Florida Retirement System. The  
 2237 department shall adopt rules establishing criteria for claiming  
 2238 such credit and detailing the documentation required to  
 2239 substantiate the error.

2240 ~~(f) For prior service performed on or after July 1, 2011,~~  
 2241 ~~for which the member had credit under the Florida Retirement~~  
 2242 ~~System and received a refund of contributions 3 calendar months~~  
 2243 ~~after termination of employment, the member shall contribute at~~  
 2244 ~~the rate that was required during the period of service being~~  
 2245 ~~claimed, plus 6.5 percent interest, compounded annually on each~~  
 2246 ~~June 30 from date of refund until the full payment is made to~~  
 2247 ~~the Florida Retirement System Trust Fund, and receive credit in~~  
 2248 ~~the membership class in which the member participated during the~~  
 2249 ~~period claimed.~~

2250 (f) ~~(g)~~ The employer may not be required to make

2251 contributions for prior service credit for any member, except  
 2252 that the employer shall pay the employer portion of  
 2253 contributions for any legislator who elects to withdraw from the  
 2254 Florida Retirement System and later rejoins the system and pays  
 2255 any employee contributions required in accordance with s.  
 2256 121.052(3)(d).

2257 Section 15. Paragraphs (a) and (b) of subsection (3),  
 2258 paragraphs (a) and (j) of subsection (4), paragraphs (a) and (c)  
 2259 of subsection (5), paragraph (d) of subsection (9), paragraphs  
 2260 (a) and (c) of subsection (13), and paragraph (d) of subsection  
 2261 (14) of section 121.091, Florida Statutes, are amended to read:

2262 121.091 Benefits payable under the system.—Benefits may  
 2263 not be paid under this section unless the member has terminated  
 2264 employment as provided in s. 121.021(39)(a) or begun  
 2265 participation in the Deferred Retirement Option Program as  
 2266 provided in subsection (13), and a proper application has been  
 2267 filed in the manner prescribed by the department. The department  
 2268 may cancel an application for retirement benefits when the  
 2269 member or beneficiary fails to timely provide the information  
 2270 and documents required by this chapter and the department's  
 2271 rules. The department shall adopt rules establishing procedures  
 2272 for application for retirement benefits and for the cancellation  
 2273 of such application when the required information or documents  
 2274 are not received.

2275 (3) EARLY RETIREMENT BENEFIT.—Upon retirement on his or  
 2276 her early retirement date, the member shall receive an immediate  
 2277 monthly benefit that shall begin to accrue on the first day of  
 2278 the month of the retirement date and be payable on the last day

2279 of that month and each month thereafter during his or her  
 2280 lifetime. Such benefit shall be calculated as follows:

2281 (a) ~~For a member initially enrolled:~~

2282 ~~1. Before July 1, 2011,~~ The amount of each monthly payment  
 2283 shall be computed in the same manner as for a normal retirement  
 2284 benefit, in accordance with subsection (1), but shall be based  
 2285 on the member's average monthly compensation and creditable  
 2286 service as of the member's early retirement date. The benefit so  
 2287 computed shall be reduced by five-twelfths of 1 percent for each  
 2288 complete month by which the early retirement date precedes the  
 2289 normal retirement date of age 62 for a member of the Regular  
 2290 Class, Senior Management Service Class, or the Elected Officers'  
 2291 Class, and age 55 for a member of the Special Risk Class, or age  
 2292 52 if a Special Risk member has completed 25 years of creditable  
 2293 service in accordance with s. 121.021(29)(b)3.

2294 ~~121.021(29)(b)1.c.~~

2295 ~~2. On or after July 1, 2011, the amount of each monthly~~  
 2296 ~~payment shall be computed in the same manner as for a normal~~  
 2297 ~~retirement benefit, in accordance with subsection (1), but shall~~  
 2298 ~~be based on the member's average monthly compensation and~~  
 2299 ~~creditable service as of the member's early retirement date. The~~  
 2300 ~~benefit so computed shall be reduced by five-twelfths of 1~~  
 2301 ~~percent for each complete month by which the early retirement~~  
 2302 ~~date precedes the normal retirement date of age 65 for a member~~  
 2303 ~~of the Regular Class, Senior Management Service Class, or the~~  
 2304 ~~Elected Officers' Class, and age 60 for a member of the Special~~  
 2305 ~~Risk Class, or age 57 if a special risk member has completed 30~~  
 2306 ~~years of creditable service in accordance with s.~~

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2307 ~~121.021(29)(b)2.c.~~

2308 (b) If the employment of a member is terminated by reason  
 2309 of death subsequent to the completion of 20 years of creditable  
 2310 service ~~within 10 years before normal retirement as described in~~  
 2311 ~~s. 121.021(29)(a)1.b. or s. 121.021(29)(a)2.b.~~, the monthly  
 2312 benefit payable to the member's beneficiary shall be calculated  
 2313 in accordance with subsection (1), but shall ~~must~~ be based on  
 2314 average monthly compensation and creditable service as of the  
 2315 date of death. The benefit so computed shall be reduced by five-  
 2316 twelfths of 1 percent for each complete month by which death  
 2317 precedes the normal retirement date specified above or the date  
 2318 on which the member would have attained 30 years of creditable  
 2319 service ~~the normal retirement date~~ had he or she survived and  
 2320 continued his or her employment, whichever provides a higher  
 2321 benefit.

2322 (4) DISABILITY RETIREMENT BENEFIT.—

2323 (a) *Disability retirement; entitlement and effective*  
 2324 *date.*—

2325 1.a. A member who becomes totally and permanently  
 2326 disabled, as defined in paragraph (b), after completing 5 years  
 2327 of creditable service, or a member who becomes totally and  
 2328 permanently disabled in the line of duty regardless of service,  
 2329 shall be ~~is~~ entitled to a monthly disability benefit; except  
 2330 that any member with less than 5 years of creditable service on  
 2331 July 1, 1980, or any person who becomes a member of the Florida  
 2332 Retirement System on or after such date must have completed 10  
 2333 years of creditable service prior to ~~before~~ becoming totally and  
 2334 permanently disabled in order to receive disability retirement

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2335 benefits for any disability which occurs other than in the line  
 2336 of duty. However, if a member employed on July 1, 1980, with ~~who~~  
 2337 ~~has~~ less than 5 years of creditable service as of that date,  
 2338 becomes totally and permanently disabled after completing 5  
 2339 years of creditable service and is found not to have attained  
 2340 fully insured status for benefits under the federal Social  
 2341 Security Act, such member shall be ~~is~~ entitled to a monthly  
 2342 disability benefit.

2343 b. Effective July 1, 2001, a member of the defined benefit  
 2344 retirement program ~~pension plan~~ who becomes totally and  
 2345 permanently disabled, as defined in paragraph (b), after  
 2346 completing 8 years of creditable service, or a member who  
 2347 becomes totally and permanently disabled in the line of duty  
 2348 regardless of service, shall be ~~is~~ entitled to a monthly  
 2349 disability benefit.

2350 2. If the division has received from the employer the  
 2351 required documentation of the member's termination of  
 2352 employment, the effective retirement date for a member who  
 2353 applies and is approved for disability retirement shall be  
 2354 established by rule of the division.

2355 3. For a member who is receiving Workers' Compensation  
 2356 payments, the effective disability retirement date may not  
 2357 precede the date the member reaches Maximum Medical Improvement  
 2358 (MMI), unless the member terminates employment prior to ~~before~~  
 2359 reaching MMI.

2360 (j) *Disability retirement of justice or judge by order of*  
 2361 *Supreme Court.*—

2362 1. If a member is a justice of the Supreme Court, judge of

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2363 a district court of appeal, circuit judge, or judge of a county  
 2364 court who has served for 6 years or more ~~the number of years~~  
 2365 ~~equal to, or greater than, the vesting requirement in s.~~  
 2366 ~~121.021(45)~~ as an elected constitutional judicial officer,  
 2367 including service as a judicial officer, in any court abolished  
 2368 pursuant to Art. V of the State Constitution, and who is retired  
 2369 for disability by order of the Supreme Court upon recommendation  
 2370 of the Judicial Qualifications Commission pursuant to the  
 2371 provisions of Art. V of the State Constitution, the member's  
 2372 Option 1 monthly benefit as provided in subparagraph (6)(a)1.  
 2373 shall ~~may~~ not be less than two-thirds of his or her monthly  
 2374 compensation as of the member's disability retirement date. Such  
 2375 a member may alternatively elect to receive a disability  
 2376 retirement benefit under any other option as provided in  
 2377 paragraph (6)(a).

2378 2. Should any justice or judge who is a member of the  
 2379 Florida Retirement System be retired for disability by order of  
 2380 the Supreme Court upon recommendation of the Judicial  
 2381 Qualifications Commission pursuant to the provisions of Art. V  
 2382 of the State Constitution, then all contributions to his or her  
 2383 account and all contributions made on his or her behalf by the  
 2384 employer shall be transferred to and deposited in the General  
 2385 Revenue Fund of the state, and there is hereby appropriated  
 2386 annually out of the General Revenue Fund, to be paid into the  
 2387 Florida Retirement System Fund, an amount necessary to pay the  
 2388 benefits of all justices and judges retired from the Florida  
 2389 Retirement System pursuant to Art. V of the State Constitution.

2390 (5) TERMINATION BENEFITS.—A member whose employment is

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2391 terminated prior to retirement retains membership rights to  
2392 previously earned member-noncontributory service credit, and to  
2393 member-contributory service credit, if the member leaves the  
2394 member contributions on deposit in his or her retirement  
2395 account. If a terminated member receives a refund of member  
2396 contributions, such member may reinstate membership rights to  
2397 the previously earned service credit represented by the refund  
2398 by completing 1 year of creditable service and repaying the  
2399 refunded member contributions, plus interest.

2400 (a) A member whose employment is terminated for any reason  
2401 other than death or retirement prior to ~~before~~ becoming vested  
2402 is entitled to the return of his or her accumulated  
2403 contributions as of the date of termination. ~~Effective July 1,~~  
2404 ~~2011, upon termination of employment from all participating~~  
2405 ~~employers for 3 calendar months as defined in s. 121.021(39)(c)~~  
2406 ~~for any reason other than retirement, a member may receive a~~  
2407 ~~refund of all contributions he or she has made to the pension~~  
2408 ~~plan, subject to the restrictions otherwise provided in this~~  
2409 ~~chapter. The refund may be received as a lump sum payment, a~~  
2410 ~~rollover to a qualified plan, or a combination of these methods.~~  
2411 ~~Partial refunds are not permitted. The refund may not include~~  
2412 ~~any interest earnings on the contributions for a member of the~~  
2413 ~~pension plan. Employer contributions made on behalf of the~~  
2414 ~~member are not refundable. A member may not receive a refund of~~  
2415 ~~employee contributions if a pending or an approved qualified~~  
2416 ~~domestic relations order is filed against his or her retirement~~  
2417 ~~account. By obtaining a refund of contributions, a member waives~~  
2418 ~~all rights under the Florida Retirement System and the health~~

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2419 ~~insurance subsidy to the service credit represented by the~~  
2420 ~~refunded contributions, except the right to purchase his or her~~  
2421 ~~prior service credit in accordance with s. 121.081(2).~~

2422 (c) In lieu of the deferred monthly benefit provided in  
2423 paragraph (b), the terminated member may elect to receive a  
2424 lump-sum amount equal to his or her accumulated contributions as  
2425 of the date of termination. ~~Effective July 1, 2011, upon~~  
2426 ~~termination of employment from all participating employers for 3~~  
2427 ~~calendar months as defined in s. 121.021(39)(c) for any reason~~  
2428 ~~other than retirement, a member may receive a refund of all~~  
2429 ~~contributions he or she has made to the pension plan, subject to~~  
2430 ~~the restrictions otherwise provided in this chapter. Partial~~  
2431 ~~refunds are not permitted. The refund may not include any~~  
2432 ~~interest earnings on the contributions for a member of the~~  
2433 ~~pension plan. Employer contributions made on behalf of the~~  
2434 ~~member are not refundable. A member may not receive a refund of~~  
2435 ~~employee contributions if a pending or an approved qualified~~  
2436 ~~domestic relations order is filed against his or her retirement~~  
2437 ~~account. By obtaining a refund of contributions, a member waives~~  
2438 ~~all rights under the Florida Retirement System and the health~~  
2439 ~~insurance subsidy to the service credit represented by the~~  
2440 ~~refunded contributions, except the right to purchase his or her~~  
2441 ~~prior service credit in accordance with s. 121.081(2).~~

2442 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

2443 (d) The provisions of This subsection apply applies to  
2444 retirees, as defined in s. 121.4501(2), of the Public Employee  
2445 Optional Retirement Program Florida Retirement System Investment  
2446 Plan, subject to the following conditions:



2447 1. The retirees ~~A retiree~~ may not be reemployed with an  
 2448 employer participating in the Florida Retirement System until  
 2449 such person has been retired for 6 calendar months.

2450 2. A retiree employed in violation of this subsection and  
 2451 an employer that employs or appoints such person are jointly and  
 2452 severally liable for reimbursement of any benefits paid to the  
 2453 retirement trust fund from which the benefits were paid,  
 2454 including the Retirement System Trust Fund and the Public  
 2455 Employee Optional Retirement Program Trust Fund, as appropriate.  
 2456 The employer must have a written statement from the retiree that  
 2457 he or she is not retired from a state-administered retirement  
 2458 system.

2459 (13) DEFERRED RETIREMENT OPTION PROGRAM.—In general, and  
 2460 subject to this section, the Deferred Retirement Option Program,  
 2461 hereinafter referred to as DROP, is a program under which an  
 2462 eligible member of the Florida Retirement System may elect to  
 2463 participate, deferring receipt of retirement benefits while  
 2464 continuing employment with his or her Florida Retirement System  
 2465 employer. The deferred monthly benefits shall accrue in the  
 2466 Florida Retirement System on behalf of the participant member,  
 2467 plus interest compounded monthly, for the specified period of  
 2468 the DROP participation, as provided in paragraph (c). Upon  
 2469 termination of employment, the participant member shall receive  
 2470 the total DROP benefits and begin to receive the previously  
 2471 determined normal retirement benefits. Participation in the DROP  
 2472 does not guarantee employment for the specified period of DROP.  
 2473 Participation in DROP by an eligible member beyond the initial  
 2474 60-month period as authorized in this subsection shall be on an

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2475 annual contractual basis for all participants.

2476 (a) *Eligibility of member to participate in DROP.*—All  
2477 active Florida Retirement System members in a regularly  
2478 established position, and all active members of the Teachers'  
2479 Retirement System established in chapter 238 or the State and  
2480 County Officers' and Employees' Retirement System established in  
2481 chapter 122, which are consolidated within the Florida  
2482 Retirement System under s. 121.011, are eligible to elect  
2483 participation in DROP if:

2484 1. The member is not a renewed member under s. 121.122 or  
2485 a member of the State Community College System Optional  
2486 Retirement Program under s. 121.051, the Senior Management  
2487 Service Optional Annuity Program under s. 121.055, or the  
2488 optional retirement program for the State University System  
2489 under s. 121.35.

2490 2. Except as provided in subparagraph 6., election to  
2491 participate is made within 12 months immediately after ~~following~~  
2492 the date on which the member first reaches normal retirement  
2493 date, or, for a member who reaches normal retirement date based  
2494 on service before he or she reaches age 62, or age 55 for  
2495 Special Risk Class members, election to participate may be  
2496 deferred to the 12 months immediately after ~~following~~ the date  
2497 the member attains age 57, or age 52 for Special Risk Class  
2498 members. A member who delays DROP participation during the 12-  
2499 month period immediately after ~~following~~ his or her maximum DROP  
2500 deferral date, except as provided in subparagraph 6., loses a  
2501 month of DROP participation for each month delayed. A member who  
2502 fails to make an election within the 12-month limitation period

2503 forfeits all rights to participate in DROP. The member shall  
 2504 advise his or her employer and the division in writing of the  
 2505 date DROP begins. The beginning date may be subsequent to the  
 2506 12-month election period but must be within the original 60-  
 2507 month participation period provided in subparagraph (b)1. When  
 2508 establishing eligibility of the member to participate in DROP,  
 2509 the member may elect to include or exclude any optional service  
 2510 credit purchased by the member from the total service used to  
 2511 establish the normal retirement date. A member who has dual  
 2512 normal retirement dates is eligible to elect to participate in  
 2513 DROP after attaining normal retirement date in either class.

2514 3. The employer of a member electing to participate in  
 2515 DROP, or employers if dually employed, shall acknowledge in  
 2516 writing to the division the date the member's participation in  
 2517 DROP begins and the date the member's employment and DROP  
 2518 participation will terminate ~~terminates~~.

2519 4. Simultaneous employment of a participant ~~member~~ by  
 2520 additional Florida Retirement System employers subsequent to the  
 2521 commencement of ~~a member's~~ participation in DROP is permissible  
 2522 if such employers acknowledge in writing a DROP termination date  
 2523 no later than the participant's ~~member's~~ existing termination  
 2524 date or the maximum participation period provided in  
 2525 subparagraph (b)1.

2526 5. A DROP participant ~~member~~ may change employers while  
 2527 participating in DROP, subject to the following:

2528 a. A change of employment must take ~~takes~~ place without a  
 2529 break in service so that the member receives salary for each  
 2530 month of continuous DROP participation. If a member receives no

2531 salary during a month, DROP participation shall cease ~~ceases~~  
 2532 unless the employer verifies a continuation of the employment  
 2533 relationship for such participant ~~member~~ pursuant to s.  
 2534 121.021(39) (b) .

2535 b. Such participant ~~The member~~ and new employer shall  
 2536 notify the division of the identity of the new employer on forms  
 2537 required by the division.

2538 c. The new employer shall acknowledge ~~acknowledges~~, in  
 2539 writing, the participant's ~~member's~~ DROP termination date, which  
 2540 may be extended but not beyond the maximum participation period  
 2541 provided in subparagraph (b)1., shall acknowledge ~~acknowledges~~  
 2542 liability for any additional retirement contributions and  
 2543 interest required if the participant ~~member~~ fails to timely  
 2544 terminate employment, and is subject to the adjustment required  
 2545 in sub-subparagraph (c)5.d.

2546 6. Effective July 1, 2001, for instructional personnel as  
 2547 defined in s. 1012.01(2), election to participate in DROP may be  
 2548 made at any time after ~~following~~ the date on which the member  
 2549 first reaches normal retirement date. The member shall advise  
 2550 his or her employer and the division in writing of the date on  
 2551 which DROP begins. When establishing eligibility of the member  
 2552 to participate in DROP for the 60-month participation period  
 2553 provided in subparagraph (b)1., the member may elect to include  
 2554 or exclude any optional service credit purchased by the member  
 2555 from the total service used to establish the normal retirement  
 2556 date. A member who has dual normal retirement dates is eligible  
 2557 to elect to participate in either class.

2558 (c) *Benefits payable under DROP.*—

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2559 | 1. Effective on the date of DROP participation, the  
2560 | member's initial normal monthly benefit, including creditable  
2561 | service, optional form of payment, and average final  
2562 | compensation, and the effective date of retirement are fixed.  
2563 | The beneficiary established under the Florida Retirement System  
2564 | is the beneficiary eligible to receive any DROP benefits payable  
2565 | if the DROP participant dies before completing the period of  
2566 | DROP participation. If a joint annuitant predeceases the member,  
2567 | the member may name a beneficiary to receive accumulated DROP  
2568 | benefits payable. The retirement benefit, the annual cost of  
2569 | living adjustments provided in s. 121.101, and interest accrue  
2570 | monthly in the Florida Retirement System Trust Fund. ~~For members~~  
2571 | ~~whose DROP participation begins:~~

2572 | ~~a. Before July 1, 2011,~~ The interest accrues at an  
2573 | effective annual rate of 6.5 percent compounded monthly, on the  
2574 | prior month's accumulated ending balance, up to the month of  
2575 | termination or death, except as provided in s. 121.053(7).

2576 | ~~b. On or after July 1, 2011, the interest accrues at an~~  
2577 | ~~effective annual rate of 1.3 percent, compounded monthly, on the~~  
2578 | ~~prior month's accumulated ending balance, up to the month of~~  
2579 | ~~termination or death, except as provided in s. 121.053(7).~~

2580 | 2. Each employee who elects to participate in DROP may  
2581 | elect to receive a lump-sum payment for accrued annual leave  
2582 | earned in accordance with agency policy upon beginning  
2583 | participation in DROP. The accumulated leave payment certified  
2584 | to the division upon commencement of DROP shall be included in  
2585 | the calculation of the member's average final compensation. The  
2586 | employee electing the lump-sum payment is not eligible to

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2587 receive a second lump-sum payment upon termination, except to  
2588 the extent the employee has earned additional annual leave  
2589 which, combined with the original payment, does not exceed the  
2590 maximum lump-sum payment allowed by the employing agency's  
2591 policy or rules. An early lump-sum payment shall be based on the  
2592 hourly wage of the employee at the time he or she begins  
2593 participation in DROP. If the member elects to wait and receive  
2594 a lump-sum payment upon termination of DROP and termination of  
2595 employment with the employer, any accumulated leave payment made  
2596 at that time may not be included in the member's retirement  
2597 benefit, which was determined and fixed by law when the employee  
2598 elected to participate in DROP.

2599 3. The effective date of DROP participation and the  
2600 effective date of retirement of a DROP participant shall be the  
2601 first day of the month selected by the member to begin  
2602 participation in DROP, provided such date is properly  
2603 established, with the written confirmation of the employer, and  
2604 the approval of the division, on forms required by the division.

2605 4. Normal retirement benefits and any interest shall  
2606 continue to accrue in DROP until the established termination  
2607 date of DROP or until the participant ~~member~~ terminates  
2608 employment or dies prior to ~~before~~ such date, except as provided  
2609 in s. 121.053(7). Although individual DROP accounts shall ~~may~~  
2610 not be established, a separate accounting of each participant's  
2611 ~~member's~~ accrued benefits under DROP shall be calculated and  
2612 provided to participants ~~the member~~.

2613 5. At the conclusion of the participant's ~~the member's~~  
2614 ~~participation in~~ DROP, the division shall distribute the

2615 participant's ~~member's~~ total accumulated DROP benefits, subject  
 2616 to the following:

2617 a. The division shall receive verification by the  
 2618 participant's ~~member's~~ employer or employers that the  
 2619 participant ~~member~~ has terminated all employment relationships  
 2620 as provided in s. 121.021(39).

2621 b. The terminated DROP participant or, if deceased, the  
 2622 participant's ~~member's~~ named beneficiary, shall elect on forms  
 2623 provided by the division to receive payment of the DROP benefits  
 2624 in accordance with one of the options listed below. If a  
 2625 participant ~~member~~ or beneficiary fails to elect a method of  
 2626 payment within 60 days after termination of DROP, the division  
 2627 shall pay a lump sum as provided in sub-sub-subparagraph (I).

2628 (I) Lump sum.—All accrued DROP benefits, plus interest,  
 2629 less withholding taxes remitted to the Internal Revenue Service,  
 2630 shall be paid to the DROP participant or surviving beneficiary.

2631 (II) Direct rollover.—All accrued DROP benefits, plus  
 2632 interest, shall be paid from DROP directly to the custodian of  
 2633 an eligible retirement plan as defined in s. 402(c)(8)(B) of the  
 2634 Internal Revenue Code. However, in the case of an eligible  
 2635 rollover distribution to the surviving spouse of a deceased  
 2636 participant ~~member~~, an eligible retirement plan is an individual  
 2637 retirement account or an individual retirement annuity as  
 2638 described in s. 402(c)(9) of the Internal Revenue Code.

2639 (III) Partial lump sum.—A portion of the accrued DROP  
 2640 benefits shall be paid to DROP participant or surviving spouse,  
 2641 less withholding taxes remitted to the Internal Revenue Service,  
 2642 and the remaining DROP benefits must be transferred directly to

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2643 the custodian of an eligible retirement plan as defined in s.  
 2644 402(c)(8)(B) of the Internal Revenue Code. However, in the case  
 2645 of an eligible rollover distribution to the surviving spouse of  
 2646 a deceased participant ~~member~~, an eligible retirement plan is an  
 2647 individual retirement account or an individual retirement  
 2648 annuity as described in s. 402(c)(9) of the Internal Revenue  
 2649 Code. The proportions must be specified by the DROP participant  
 2650 or surviving beneficiary.

2651 c. The form of payment selected by the DROP participant or  
 2652 surviving beneficiary must comply with the minimum distribution  
 2653 requirements of the Internal Revenue Code.

2654 d. A DROP participant who fails to terminate all  
 2655 employment relationships as provided in s. 121.021(39) shall be  
 2656 deemed as not retired, and the DROP election is null and void.  
 2657 Florida Retirement System membership shall be reestablished  
 2658 retroactively to the date of the commencement of DROP, and each  
 2659 employer with whom the participant ~~member~~ continues employment  
 2660 must pay to the Florida Retirement System Trust Fund the  
 2661 difference between the DROP contributions paid in paragraph (i)  
 2662 and the contributions required for the applicable Florida  
 2663 Retirement System class of membership during the period the  
 2664 member participated in DROP, plus 6.5 percent interest  
 2665 compounded annually.

2666 6. The retirement benefits of any DROP participant who  
 2667 terminates all employment relationships as provided in s.  
 2668 121.021(39) but is reemployed in violation of the reemployment  
 2669 provisions of subsection (9) shall be ~~are~~ suspended during those  
 2670 months in which the retiree is in violation. Any retiree in



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2671 violation of this subparagraph and any employer that employs or  
 2672 appoints such person without notifying the Division of  
 2673 Retirement to suspend retirement benefits are jointly and  
 2674 severally liable for any benefits paid during the reemployment  
 2675 limitation period. The employer must have a written statement  
 2676 from the retiree that he or she is not retired from a state-  
 2677 administered retirement system. Any retirement benefits received  
 2678 by a retiree while employed in violation of the reemployment  
 2679 limitations must be repaid to the Florida Retirement System  
 2680 Trust Fund, and his or her retirement benefits shall remain  
 2681 suspended until payment is made. Benefits suspended beyond the  
 2682 end of the reemployment limitation period apply toward repayment  
 2683 of benefits received in violation of the reemployment  
 2684 limitation.

2685 7. The accrued benefits of any DROP participant, and any  
 2686 contributions accumulated under the program, are not subject to  
 2687 assignment, execution, attachment, or any legal process  
 2688 whatsoever, except for qualified domestic relations ~~court~~ orders  
 2689 by a court of competent jurisdiction, income deduction orders as  
 2690 provided in s. 61.1301, and federal income tax levies.

2691 8. DROP participants are not eligible for disability  
 2692 retirement benefits as provided in subsection (4).

2693 (14) PAYMENT OF BENEFITS.—This subsection applies to the  
 2694 payment of benefits to a payee (retiree or beneficiary) under  
 2695 the Florida Retirement System:

2696 (d) A payee whose retirement benefits are reduced by the  
 2697 application of maximum benefit limits under s. 415(b) of the  
 2698 Internal Revenue Code, as specified in s. 121.30(5), shall have

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2699 | the portion of his or her calculated benefit in the Florida  
 2700 | Retirement System Defined Benefit System ~~Pension~~ Plan which  
 2701 | exceeds such federal limitation paid through the Florida  
 2702 | Retirement System Preservation of Benefits Plan, as provided in  
 2703 | s. 121.1001.

2704 |         Section 16. Subsection (1) and paragraph (a) of subsection  
 2705 | (2) of section 121.1001, Florida Statutes, are amended to read:

2706 |         121.1001 Florida Retirement System Preservation of  
 2707 | Benefits Plan.—Effective July 1, 1999, the Florida Retirement  
 2708 | System Preservation of Benefits Plan is established as a  
 2709 | qualified governmental excess benefit arrangement pursuant to s.  
 2710 | 415(m) of the Internal Revenue Code. The Preservation of  
 2711 | Benefits Plan is created as a separate portion of the Florida  
 2712 | Retirement System, for the purpose of providing benefits to a  
 2713 | payee (retiree or beneficiary) of the Florida Retirement System  
 2714 | whose benefits would otherwise be limited by s. 415(b) of the  
 2715 | Internal Revenue Code.

2716 |         (1) ELIGIBILITY TO PARTICIPATE IN THE PRESERVATION OF  
 2717 | BENEFITS PLAN.—A payee of the Florida Retirement System shall  
 2718 | participate in the Preservation of Benefits Plan whenever ~~if~~ his  
 2719 | or her earned benefit under the Florida Retirement System  
 2720 | Defined Benefit System ~~Pension~~ Plan exceeds the benefit maximum  
 2721 | established under s. 415(b) of the Internal Revenue Code.  
 2722 | Participation in the Preservation of Benefits Plan shall  
 2723 | continue for as long as the payee's earned benefit under the  
 2724 | Florida Retirement System Defined Benefit ~~pension~~ plan is  
 2725 | reduced by the application of the maximum benefit limit under s.  
 2726 | 415(b) of the Internal Revenue Code.

2727 (2) BENEFITS PAYABLE UNDER THE PRESERVATION OF BENEFITS  
 2728 PLAN.—

2729 (a) On and after July 1, 1999, the Division of Retirement  
 2730 shall pay to each eligible payee of the Florida Retirement  
 2731 System who retires before, on, or after such ~~that~~ date, a  
 2732 supplemental retirement benefit equal to the difference between  
 2733 the amount of the payee's monthly retirement benefit which would  
 2734 have been payable under the Florida Retirement System Defined  
 2735 Benefit System Pension Plan if not for a reduction due to the  
 2736 application of s. 415(b) of the Internal Revenue Code and the  
 2737 reduced monthly retirement benefit as paid to the payee. The  
 2738 Preservation of Benefits Plan benefit shall be computed and  
 2739 payable under the same terms and conditions and to the same  
 2740 person as would have applied under the Florida Retirement System  
 2741 Defined Benefit ~~pension~~ plan were it not for the federal  
 2742 limitation.

2743 Section 17. Present subsections (6) through (9) of that  
 2744 section 121.101, Florida Statutes, are redesignated as  
 2745 subsections (4) through (7), respectively, and present  
 2746 subsections (1), (3), (4), and (5) of that section are amended,  
 2747 to read:

2748 121.101 Cost-of-living adjustment of benefits.—

2749 (1) The purpose of this section is to provide cost-of-  
 2750 living adjustments to the monthly benefits payable to all  
 2751 retired members of state-supported retirement systems.

2752 (3) Commencing July 1, 1987, the benefit of each retiree  
 2753 and annuitant ~~whose effective retirement date is before July 1,~~  
 2754 ~~2011,~~ shall be adjusted ~~annually~~ on each July 1 thereafter, as

2755 follows:

2756 (a) For those retirees and annuitants who have never  
 2757 received a cost-of-living adjustment under this section, the  
 2758 amount of the monthly benefit payable for the 12-month period  
 2759 commencing on the adjustment date shall be the amount of the  
 2760 member's initial benefit plus an amount equal to a percentage of  
 2761 the member's initial benefit; this percentage is derived by  
 2762 dividing the number of months the member has received an initial  
 2763 benefit by 12, and multiplying the result by 3.

2764 (b) For those retirees and annuitants who have received a  
 2765 cost-of-living adjustment under this section ~~subsection~~, the  
 2766 adjusted monthly benefit shall be the amount of the monthly  
 2767 benefit being received on June 30 immediately preceding the  
 2768 adjustment date plus an amount equal to 3 percent of this  
 2769 benefit.

2770 ~~(4) For members whose effective retirement date is on or~~  
 2771 ~~after July 1, 2011, the benefit of each retiree and annuitant~~  
 2772 ~~shall be adjusted annually on July 1 as follows:~~

2773 ~~(a) For those retirees and annuitants who have never~~  
 2774 ~~received a cost-of-living adjustment under this subsection, the~~  
 2775 ~~amount of the monthly benefit payable for the 12-month period~~  
 2776 ~~commencing on the adjustment date shall be the amount of the~~  
 2777 ~~member's initial benefit plus an amount equal to a percentage of~~  
 2778 ~~the member's initial benefit. This percentage is derived by~~  
 2779 ~~dividing the number of months the member has received an initial~~  
 2780 ~~benefit by 12, and multiplying the result by the factor~~  
 2781 ~~calculated pursuant to paragraph (c).~~

2782 ~~(b) For those retirees and annuitants who have received a~~

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2783 ~~cost of living adjustment under this subsection, the adjusted~~  
2784 ~~monthly benefit shall be the amount of the monthly benefit being~~  
2785 ~~received on June 30 immediately preceding the adjustment date~~  
2786 ~~plus an amount determined by multiplying the benefit by the~~  
2787 ~~factor calculated pursuant to paragraph (c).~~

2788 ~~(c) The department shall calculate a cost of living factor~~  
2789 ~~for each retiree and beneficiary retiring on or after July 1,~~  
2790 ~~2011. This factor shall equal the product of 3 percent~~  
2791 ~~multiplied by the quotient of the sum of the member's service~~  
2792 ~~credit earned for service before July 1, 2011, divided by the~~  
2793 ~~sum of the member's total service credit earned.~~

2794 ~~(5) Subject to the availability of funding and the~~  
2795 ~~Legislature enacting sufficient employer contributions~~  
2796 ~~specifically for the purpose of funding the expiration of the~~  
2797 ~~cost of living adjustment specified in subsection (4), in~~  
2798 ~~accordance with s. 14, Art. X of the State Constitution, the~~  
2799 ~~cost of living adjustment formula provided for in subsection (4)~~  
2800 ~~shall expire effective June 30, 2016, and the benefit of each~~  
2801 ~~retiree and annuitant shall be adjusted on each July 1~~  
2802 ~~thereafter, as provided in subsection (3).~~

2803 Section 18. Paragraph (b) of subsection (1) of section  
2804 121.1115, Florida Statutes, is amended to read:

2805 121.1115 Purchase of retirement credit for out-of-state or  
2806 federal service.—Effective January 1, 1995, a member may  
2807 purchase creditable service for periods of public employment in  
2808 another state and receive creditable service for such periods of  
2809 employment. Service with the Federal Government, including any  
2810 active military service, may be claimed. Upon completion of each

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2811 year of service earned under the Florida Retirement System, a  
 2812 member may purchase up to 1 year of retirement credit for his or  
 2813 her out-of-state service, subject to the following provisions:

2814 (1) LIMITATIONS AND CONDITIONS.—To receive credit for the  
 2815 out-of-state service:

2816 (b) The member must have completed a minimum of 6 ~~the~~  
 2817 years of creditable service ~~required for vesting~~ under the  
 2818 Florida Retirement System, excluding out-of-state service and  
 2819 in-state service claimed and purchased under s. 121.1122.

2820 Section 19. Paragraph (a) of subsection (2) of section  
 2821 121.1122, Florida Statutes, is amended to read:

2822 121.1122 Purchase of retirement credit for in-state public  
 2823 service and in-state service in accredited nonpublic schools and  
 2824 colleges, including charter schools and charter technical career  
 2825 centers.—Effective January 1, 1998, a member of the Florida  
 2826 Retirement System may purchase creditable service for periods of  
 2827 certain public or nonpublic employment performed in this state,  
 2828 as provided in this section.

2829 (2) LIMITATIONS AND CONDITIONS.—

2830 (a) A member is not eligible to receive credit for in-  
 2831 state service under this section until he or she has completed 6  
 2832 ~~the~~ years of creditable service ~~required for vesting~~ under the  
 2833 Florida Retirement System, excluding service purchased under  
 2834 this section and out-of-state service claimed and purchased  
 2835 under s. 121.1115.

2836 Section 20. Subsection (1) of section 121.121, Florida  
 2837 Statutes, is amended to read:

2838 121.121 Authorized leaves of absence.—

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2839 (1) A member may purchase creditable service for up to 2  
 2840 work years of authorized leaves of absence, including any leaves  
 2841 of absence covered under the Family Medical Leave Act, if:

2842 (a) The member has completed a minimum of 6 ~~the~~ years of  
 2843 creditable service ~~required for vesting~~, excluding periods for  
 2844 which a leave of absence was authorized;

2845 (b) The leave of absence is authorized in writing by the  
 2846 employer of the member and approved by the administrator;

2847 (c) The member returns to active employment performing  
 2848 service with a Florida Retirement System employer in a regularly  
 2849 established position immediately upon termination of the leave  
 2850 of absence and remains on the employer's payroll for 1 calendar  
 2851 month, except that a member who retires on disability while on a  
 2852 medical leave of absence shall ~~may~~ not be required to return to  
 2853 employment. A member whose work year is less than 12 months and  
 2854 whose leave of absence terminates between school years is  
 2855 eligible to receive credit for the leave of absence as long as  
 2856 ~~if~~ he or she returns to the employment of his or her employer at  
 2857 the beginning of the next school year and remains on the  
 2858 employer's payroll for 1 calendar month; and

2859 (d) The member makes the required contributions for  
 2860 service credit during the leave of absence, which shall be 8  
 2861 percent until January 1, 1975, and 9 percent thereafter of his  
 2862 or her rate of monthly compensation in effect immediately prior  
 2863 to ~~before~~ the commencement of such leave for each month of such  
 2864 period, plus 4 percent interest until July 1, 1975, and 6.5  
 2865 percent interest thereafter on such contributions, compounded  
 2866 annually each June 30 from the due date of the contribution to

2867 date of payment.

2868 ~~1.~~ Effective July 1, 1980, any leave of absence purchased  
 2869 pursuant to this section shall be ~~is~~ at the contribution rates  
 2870 specified in s. 121.071 ~~or s. 121.71~~ in effect at the time the  
 2871 leave is granted for the class of membership from which the  
 2872 leave of absence was granted; however, any member who purchased  
 2873 leave-of-absence credit prior to ~~before~~ July 1, 1980, for a  
 2874 leave of absence from a position in a class other than the  
 2875 regular membership class, may pay the appropriate additional  
 2876 contributions plus compound interest thereon and receive  
 2877 creditable service for such leave of absence in the membership  
 2878 class from which the member was granted the leave of absence.

2879 ~~2.~~ ~~Effective July 1, 2011, any leave of absence purchased~~  
 2880 ~~by the member pursuant to this section shall be at the employer~~  
 2881 ~~and employee contribution rates specified in s. 121.71 in effect~~  
 2882 ~~during the leave for the class of membership from which the~~  
 2883 ~~leave of absence was granted.~~

2884 Section 21. Section 121.125, Florida Statutes, is amended  
 2885 to read:

2886 121.125 Credit for workers' compensation payment periods.-  
 2887 A member of the retirement system created by this chapter who  
 2888 has been eligible or becomes eligible to receive workers'  
 2889 compensation payments for an injury or illness occurring during  
 2890 his or her employment while a member of any state retirement  
 2891 system shall, upon return to active employment with a covered  
 2892 employer for 1 calendar month or upon approval for disability  
 2893 retirement in accordance with s. 121.091(4), receive full  
 2894 retirement credit for the period prior to such return to active



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2895 employment or disability retirement for which the workers'  
 2896 compensation payments were received. However, no a member may  
 2897 ~~not~~ receive retirement credit for any such period occurring  
 2898 after the earlier of the date of maximum medical improvement as  
 2899 defined in s. 440.02 or the date termination has occurred as  
 2900 defined in s. 121.021(39). The employer of record at the time of  
 2901 the workers' compensation injury or illness shall make the  
 2902 required ~~employer and employee~~ retirement contributions based on  
 2903 the member's rate of monthly compensation immediately prior to  
 2904 his or her receiving workers' compensation payments for  
 2905 retirement credit received by the member. ~~The employer of record~~  
 2906 ~~at the time of the workers' compensation injury or illness shall~~  
 2907 ~~be assessed by the division a penalty of 1 percent of the~~  
 2908 ~~contributions on all contributions not paid on the first payroll~~  
 2909 ~~report after the member becomes eligible to receive credit. This~~  
 2910 ~~delinquent assessment may not be waived.~~

2911 Section 22. Section 121.161, Florida Statutes, is  
 2912 reenacted to read:

2913 121.161 References to other laws include amendments.—  
 2914 References in this chapter to state or federal laws or  
 2915 agreements are intended to include such laws as they now exist  
 2916 or may hereafter be amended.

2917 Section 23. Section 121.182, Florida Statutes, is amended  
 2918 to read:

2919 121.182 Retirement annuities authorized for city and  
 2920 county personnel.—Cities ~~Municipalities~~ and counties are  
 2921 authorized to purchase annuities for all city ~~municipal~~ and  
 2922 county personnel with 25 or more years of creditable service who

2923 have reached age 50 and have applied for retirement under the  
 2924 Florida Retirement System. No such annuity shall provide for  
 2925 more than the total difference in retirement income between the  
 2926 retirement benefit based on average monthly compensation and  
 2927 creditable service as of the member's early retirement date and  
 2928 the early retirement benefit. Cities ~~Municipalities~~ and counties  
 2929 may also purchase annuities for members of the Florida  
 2930 Retirement System who have out-of-state service in another state  
 2931 or country which is documented as valid by the appropriate city  
 2932 or county. Such annuities may be based on no more than 5 years  
 2933 of out-of-state service and may equal, but not exceed, the  
 2934 benefits that would be payable under the Florida Retirement  
 2935 System if credit for out-of-state service was authorized under  
 2936 that system. Cities ~~Municipalities~~ and counties are authorized  
 2937 to invest funds, purchase annuities, or provide local  
 2938 supplemental retirement programs for purposes of providing  
 2939 annuities for city or county personnel. All retirement annuities  
 2940 shall comply with s. 14, Art. X of the State Constitution.

2941 Section 24. Paragraphs (g) and (i) of subsection (3) and  
 2942 subsections (4) and (5) of section 121.35, Florida Statutes, are  
 2943 amended to read:

2944 121.35 Optional retirement program for the State  
 2945 University System.—

2946 (3) ELECTION OF OPTIONAL PROGRAM.—

2947 (g) An eligible employee who is a member of the Florida  
 2948 Retirement System at the time of election to participate in the  
 2949 optional retirement program shall retain all retirement service  
 2950 credit earned under the Florida Retirement System, at the rate

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2951 earned. No additional service credit in the Florida Retirement  
2952 System shall ~~may not~~ be earned while the employee participates  
2953 in the optional program, nor shall ~~and~~ the employee be ~~is not~~  
2954 eligible for disability retirement under the Florida Retirement  
2955 System. An eligible employee may transfer from the Florida  
2956 Retirement System to his or her accounts under the State  
2957 University System Optional Retirement Program a sum representing  
2958 the present value of the employee's accumulated benefit  
2959 obligation under the defined benefit program of the Florida  
2960 Retirement System ~~pension plan~~ for any service credit accrued  
2961 from the employee's first eligible transfer date to the optional  
2962 retirement program through the actual date of such transfer, if  
2963 such service credit was earned in the period from July 1, 1984,  
2964 through December 31, 1992. The present value of the employee's  
2965 accumulated benefit obligation shall be calculated as described  
2966 in s. 121.4501(3) (c)2. Upon such transfer, all such service  
2967 credit previously earned under the defined benefit program of  
2968 the Florida Retirement System ~~pension plan~~ during this period  
2969 shall be ~~is~~ nullified for purposes of entitlement to a future  
2970 benefit under the defined benefit program of the Florida  
2971 Retirement System ~~pension plan~~.

2972 (i) Effective January 1, 2008, through December 31, 2008,  
2973 except for an employee who is a mandatory participant of the  
2974 State University System Optional Retirement Program, an employee  
2975 who has elected to participate in the State University System  
2976 Optional Retirement Program shall have one opportunity, at the  
2977 employee's discretion, to choose to transfer from this program  
2978 to the defined benefit program of the Florida Retirement System

2979 ~~Pension Plan~~ or to the Public Employee Optional Retirement  
 2980 Program investment plan, subject to the terms of the applicable  
 2981 contracts of the State University System Optional Retirement  
 2982 Program.

2983 1. If the employee chooses to move to the Public Employee  
 2984 Optional Retirement Program investment plan, any contributions,  
 2985 interest, and earnings creditable to the employee under the  
 2986 State University System Optional Retirement Program shall ~~must~~  
 2987 be retained by the employee in the State University System  
 2988 Optional Retirement Program, and the applicable provisions of s.  
 2989 121.4501(4) shall govern the election.

2990 2. If the employee chooses to move to the defined benefit  
 2991 program pension plan of the Florida Retirement System, the  
 2992 employee shall receive service credit equal to his or her years  
 2993 of service under the State University System Optional Retirement  
 2994 Program.

2995 a. The cost for such credit shall be ~~must be in~~ an amount  
 2996 representing the actuarial accrued liability for the affected  
 2997 period of service. The cost shall ~~must~~ be calculated using the  
 2998 discount rate and other relevant actuarial assumptions that were  
 2999 used to value the Florida Retirement System Defined Benefit  
 3000 ~~Pension~~ Plan liabilities in the most recent actuarial valuation.  
 3001 The calculation shall ~~must~~ include any service already  
 3002 maintained under the defined benefit pension plan in addition to  
 3003 the years under the State University System Optional Retirement  
 3004 Program. The actuarial accrued liability of any service already  
 3005 maintained under the defined benefit pension plan shall ~~must~~ be  
 3006 applied as a credit to total cost resulting from the

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3007 calculation. The division shall ~~must~~ ensure that the transfer  
 3008 sum is prepared using a formula and methodology certified by an  
 3009 enrolled actuary.

3010 b. The employee must transfer from his or her State  
 3011 University System Optional Retirement Program account, and from  
 3012 other employee moneys as necessary, a sum representing the  
 3013 actuarial accrued liability immediately after ~~following~~ the time  
 3014 of such movement, determined assuming that attained service  
 3015 equals the sum of service in the defined benefit program ~~pension~~  
 3016 ~~plan~~ and service in the State University System Optional  
 3017 Retirement Program.

3018 (4) CONTRIBUTIONS.—

3019 (a) ~~1.~~ Through June 30, 2001, each employer shall  
 3020 contribute on behalf of each participant in ~~member of~~ the  
 3021 optional retirement program an amount equal to the normal cost  
 3022 portion of the employer retirement contribution which would be  
 3023 required if the participant ~~employee~~ were a regular member of  
 3024 the Florida Retirement System defined benefit program ~~System~~  
 3025 ~~Pension Plan~~, plus the portion of the contribution rate required  
 3026 in s. 112.363(8) that would otherwise be assigned to the Retiree  
 3027 Health Insurance Subsidy Trust Fund.

3028 ~~2.~~ Effective July 1, 2001, ~~through June 30, 2011,~~ each  
 3029 employer shall contribute on behalf of each ~~member of~~  
 3030 participant in the optional ~~retirement~~ program an amount equal  
 3031 to 10.43 percent of the participant's ~~employee's~~ gross monthly  
 3032 compensation.

3033 ~~3.~~ Effective July 1, 2011, ~~each member of the optional~~  
 3034 ~~retirement program shall contribute an amount equal to the~~

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3035 ~~employee contribution required in s. 121.71(3). The employer~~  
3036 ~~shall contribute on behalf of each such member an amount equal~~  
3037 ~~to the difference between 10.43 percent of the employee's gross~~  
3038 ~~monthly compensation and the amount equal to the employee's~~  
3039 ~~required contribution based on the employee's gross monthly~~  
3040 ~~compensation.~~

3041 4. The department shall deduct an amount approved by the  
3042 Legislature to provide for the administration of this program.  
3043 The payment of the contributions to the optional program which  
3044 is required by this paragraph for each participant, including  
3045 ~~contributions by the employee,~~ shall be made by the employer to  
3046 the department, which shall forward the contributions to the  
3047 designated company or companies contracting for payment of  
3048 benefits for the participant under ~~members of~~ the program.  
3049 However, such contributions paid on behalf of an employee  
3050 described in paragraph (3)(c) shall ~~may~~ not be forwarded to a  
3051 company and shall ~~do~~ not begin to accrue interest until the  
3052 employee has executed a contract and notified the department.  
3053 ~~The department shall deduct an amount from the contributions to~~  
3054 ~~provide for the administration of this program.~~

3055 (b) Each employer shall contribute on behalf of each  
3056 participant in ~~member of~~ the optional retirement program an  
3057 amount equal to the unfunded actuarial accrued liability portion  
3058 of the employer contribution which would be required for members  
3059 of the Florida Retirement System. This contribution shall be  
3060 paid to the department for transfer to the Florida Retirement  
3061 System Trust Fund.

3062 (c) An Optional Retirement Program Trust Fund shall be

3063 established in the State Treasury and administered by the  
 3064 department to make payments to the provider companies on behalf  
 3065 of the optional retirement program participants ~~members~~, and to  
 3066 transfer the unfunded liability portion of the state optional  
 3067 retirement program contributions to the Florida Retirement  
 3068 System Trust Fund.

3069 (d) Contributions required for social security by each  
 3070 employer and each participant ~~employee~~, in the amount required  
 3071 for social security coverage as now or hereafter may be provided  
 3072 by the federal Social Security Act, shall be maintained for each  
 3073 participant in ~~member of~~ the optional retirement program and  
 3074 shall be ~~are~~ in addition to the retirement contributions  
 3075 specified in this subsection.

3076 (e) Each participant in ~~member of~~ the optional retirement  
 3077 program who has executed a contract may contribute by way of  
 3078 salary reduction or deduction a percentage amount of the  
 3079 participant's ~~employee's~~ gross compensation not to exceed the  
 3080 percentage amount contributed by the employer to the optional  
 3081 program, but in no case may such contribution ~~may not~~ exceed  
 3082 federal limitations. Payment of the participant's ~~employee's~~  
 3083 contributions shall be made by the financial officer of the  
 3084 employer to the division which shall forward the contributions  
 3085 to the designated company or companies contracting for payment  
 3086 of benefits for the participant under ~~members of~~ the program. A  
 3087 participant ~~member~~ may not make, through salary reduction, any  
 3088 voluntary employee contributions to any other plan under s.  
 3089 403(b) of the Internal Revenue Code, with the exception of a  
 3090 custodial account under s. 403(b) (7) of the Internal Revenue

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3091 Code, until he or she has made an employee contribution to his  
 3092 or her optional program equal to the employer contribution. A  
 3093 participant ~~An employee~~ is responsible for monitoring his or her  
 3094 individual tax-deferred income to ensure he or she does not  
 3095 exceed the maximum deferral amounts permitted under the Internal  
 3096 Revenue Code.

3097 (f) The Optional Retirement Trust Fund may accept for  
 3098 deposit into participant ~~member~~ contracts contributions in the  
 3099 form of rollovers or direct trustee-to-trustee transfers by or  
 3100 on behalf of participants ~~members~~ who are reasonably determined  
 3101 by the department to be eligible for rollover or transfer to the  
 3102 optional retirement program pursuant to the Internal Revenue  
 3103 Code, if such contributions are made in accordance with rules  
 3104 adopted by the department. Such contributions shall be accounted  
 3105 for in accordance with any applicable requirements of the  
 3106 Internal Revenue Code and ~~department~~ rules of the department.

3107 (g) Effective July 1, 2008, for purposes of paragraph (a)  
 3108 and notwithstanding s. 121.021(22)(b)1., the term "  
 3109 participant's ~~employee's~~ gross monthly compensation" includes  
 3110 salary payments made to eligible clinical faculty from a state  
 3111 university using funds provided by a faculty practice plan  
 3112 authorized by the Board of Governors of the State University  
 3113 System if:

- 3114 1. There is not any ~~no~~ employer contribution from the  
 3115 state university to any other retirement program with respect to  
 3116 such salary payments; and
- 3117 2. The employer contribution on behalf of the participant  
 3118 in a ~~member~~ of the optional retirement program with respect to



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3119 such salary payments is made using funds provided by the faculty  
3120 practice plan.

3121 (5) BENEFITS.—

3122 (a) Benefits are payable under the optional retirement  
3123 program only to vested participants ~~members participating~~ in the  
3124 program, or their beneficiaries as designated by the participant  
3125 ~~member~~ in the contract with a provider company, and such  
3126 benefits shall be paid only by the designated company in  
3127 accordance with s. 403(b) of the Internal Revenue Code and the  
3128 terms of the annuity contract or contracts applicable to the  
3129 participant ~~member~~. Benefits accrue in individual accounts that  
3130 are participant-directed ~~member-directed~~, portable, and funded  
3131 by employer ~~and employee~~ contributions and the earnings thereon.  
3132 The participant ~~member~~ must be terminated ~~for 3 calendar months~~  
3133 from all employment relationships with all Florida Retirement  
3134 System employers, as provided in s. 121.021(39), to begin  
3135 receiving the employer-funded benefit. Benefits funded by  
3136 employer ~~and employee~~ contributions are payable in accordance  
3137 with the following terms and conditions:

3138 1. Benefits shall be paid only to a participant  
3139 ~~participating member~~, to his or her beneficiaries, or to his or  
3140 her estate, as designated by the participant ~~member~~.

3141 2. Benefits shall be paid by the provider company or  
3142 companies in accordance with the law, the provisions of the  
3143 contract, and any applicable department rule or policy.

3144 3. In the event of a participant's ~~member's~~ death, moneys  
3145 accumulated by, or on behalf of, the participant ~~member~~, less  
3146 withholding taxes remitted to the Internal Revenue Service, if

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3147 any, shall be distributed to the participant's ~~member's~~  
3148 designated beneficiary or beneficiaries, or to the participant's  
3149 ~~member's~~ estate, as if the participant ~~member~~ retired on the  
3150 date of death, as provided in paragraph (c) ~~(d)~~. No other death  
3151 benefits are available to survivors of participants ~~members~~  
3152 under the optional retirement program except for such benefits,  
3153 or coverage for such benefits, as are separately afforded by the  
3154 employer, at the employer's discretion.

3155 ~~(b) Benefits, including employee contributions, are not~~  
3156 ~~payable for employee hardships, unforeseeable emergencies,~~  
3157 ~~loans, medical expenses, educational expenses, purchase of a~~  
3158 ~~principal residence, payments necessary to prevent eviction or~~  
3159 ~~foreclosure on an employee's principal residence, or any other~~  
3160 ~~reason before termination from all employment relationships with~~  
3161 ~~participating employers for 3 calendar months.~~

3162 ~~(b)(e)~~ Upon receipt by the provider company of a properly  
3163 executed application for distribution of benefits, the total  
3164 accumulated benefit shall be ~~is~~ payable to the participant  
3165 ~~participating member~~ as:

- 3166 1. A lump-sum distribution to the participant ~~member~~;
- 3167 2. A lump-sum direct rollover distribution whereby all  
3168 accrued benefits, plus interest and investment earnings, are  
3169 paid from the participant's ~~member's~~ account directly to an  
3170 eligible retirement plan, as defined in s. 402(c)(8)(B) of the  
3171 Internal Revenue Code, on behalf of the participant ~~member~~;
- 3172 3. Periodic distributions;
- 3173 4. A partial lump-sum payment whereby a portion of the  
3174 accrued benefit is paid to the participant ~~member~~ and the

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3175 remaining amount is transferred to an eligible retirement plan,  
 3176 as defined in s. 402(c)(8)(B) of the Internal Revenue Code, on  
 3177 behalf of the participant ~~member~~; or

3178 5. Such other distribution options as are provided for in  
 3179 the participant's ~~member's~~ optional retirement program contract.

3180 ~~(c)-(d)~~ Survivor benefits shall be ~~are~~ payable as:

3181 1. A lump-sum distribution payable to the beneficiaries or  
 3182 to the deceased participant's ~~member's~~ estate;

3183 2. An eligible rollover distribution on behalf of the  
 3184 surviving spouse of a deceased participant ~~member~~, whereby all  
 3185 accrued benefits, plus interest and investment earnings, are  
 3186 paid from the deceased participant's ~~member's~~ account directly  
 3187 to an eligible retirement plan, as described in s. 402(c)(8)(B)  
 3188 of the Internal Revenue Code, on behalf of the surviving spouse;

3189 3. Such other distribution options as are provided for in  
 3190 the participant's ~~member's~~ optional retirement program contract;  
 3191 or

3192 4. A partial lump-sum payment whereby a portion of the  
 3193 accrued benefit is paid to the deceased participant's ~~member's~~  
 3194 surviving spouse or other designated beneficiaries, less  
 3195 withholding taxes remitted to the Internal Revenue Service, if  
 3196 any, and the remaining amount is transferred directly to an  
 3197 eligible retirement plan, as described in s. 402(c)(8)(B) of the  
 3198 Internal Revenue Code, on behalf of the surviving spouse. The  
 3199 proportions must be specified by the participant ~~member~~ or the  
 3200 surviving beneficiary.

3201  
 3202 This paragraph does not abrogate other applicable provisions of

3203 state or federal law providing payment of death benefits.

3204 (d)~~(e)~~ The benefits payable to any person under the  
 3205 optional retirement program, and any contribution accumulated  
 3206 under such program, shall ~~are~~ not be subject to assignment,  
 3207 execution, or attachment or to any legal process whatsoever.

3208 (e)~~(f)~~ A participant ~~participating member~~ who chooses to  
 3209 receive his or her benefits upon termination as defined in s.  
 3210 121.021 ~~must be terminated for 3 calendar months to be eligible~~  
 3211 ~~to receive benefits funded by employer and employee~~  
 3212 ~~contributions. The member must notify the provider company of~~  
 3213 the date he or she wishes benefits funded by ~~required~~ employer  
 3214 and ~~employee~~ contributions to begin and ~~must be terminated as~~  
 3215 ~~defined in s. 121.021 after the initial benefit payment or~~  
 3216 ~~distribution is received.~~ Benefits may be deferred until the  
 3217 participant ~~member~~ chooses to make such application.

3218 (f)~~(g)~~ Benefits funded by the participant's ~~participating~~  
 3219 ~~member's~~ voluntary personal contributions may be paid out at any  
 3220 time and in any form within the limits provided in the contract  
 3221 between the participant ~~member~~ and his or her ~~the~~ provider  
 3222 company. The participant ~~member~~ shall notify the provider  
 3223 company regarding the date and provisions under which he or she  
 3224 wants to receive the employee-funded portion of the plan.

3225 (g)~~(h)~~ For purposes of this section, "retiree" means a  
 3226 former participant ~~participating member~~ of the optional  
 3227 retirement program who has terminated employment and has taken a  
 3228 distribution as provided in this subsection, except for a  
 3229 mandatory distribution of a de minimis account authorized by the  
 3230 department.

3231           Section 25. Section 121.355, Florida Statutes, is amended  
 3232 to read:  
 3233           121.355 Community College Optional Retirement Program and  
 3234 State University System Optional Retirement Program member  
 3235 transfer.—Effective January 1, 2009, through December 31, 2009,  
 3236 an employee who is a former participant in ~~member of~~ the  
 3237 Community College Optional Retirement Program or the State  
 3238 University System Optional Retirement Program and present  
 3239 mandatory participant in ~~member of~~ the Florida Retirement System  
 3240 Defined Benefit System Pension Plan may receive service credit  
 3241 equal to his or her years of service under the Community College  
 3242 Optional Retirement Program or the State University System  
 3243 Optional Retirement Program under the following conditions:  
 3244           (1) The cost for such credit shall be an amount  
 3245 representing ~~must represent~~ the actuarial accrued liability for  
 3246 the affected period of service. The cost shall be calculated  
 3247 using the discount rate and other relevant actuarial assumptions  
 3248 that were used to value the Florida Retirement System Defined  
 3249 Benefit System Pension Plan liabilities in the most recent  
 3250 actuarial valuation. The calculation shall ~~must~~ include any  
 3251 service already maintained under the defined benefit ~~pension~~  
 3252 plan in addition to the years under the Community College  
 3253 Optional Retirement Program or the State University System  
 3254 Optional Retirement Program. The actuarial accrued liability of  
 3255 any service already maintained under the defined benefit ~~pension~~  
 3256 plan shall be applied as a credit to total cost resulting from  
 3257 the calculation. The division shall ensure that the transfer sum  
 3258 is prepared using a formula and methodology certified by an

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3259 enrolled actuary.

3260 (2) The employee must transfer from his or her Community  
 3261 College Optional Retirement Program account or State University  
 3262 System Optional Retirement Program account, subject to the terms  
 3263 of the applicable optional retirement program contract, and from  
 3264 other employee moneys as necessary, a sum representing the  
 3265 actuarial accrued liability immediately after ~~following~~ the time  
 3266 of such movement, determined assuming that attained service  
 3267 equals the sum of service in the defined benefit program ~~pension~~  
 3268 ~~plan~~ and service in the Community College Optional Retirement  
 3269 Program or State University System Optional Retirement Program.

3270 (3) The employee may not receive service credit for a  
 3271 period of mandatory participation in the State University  
 3272 Optional Retirement Program or for a period for which a  
 3273 distribution was received from the Community College Optional  
 3274 Retirement Program or State University System Optional  
 3275 Retirement Program.

3276 Section 26. Section 121.4501, Florida Statutes, is amended  
 3277 to read:

3278 121.4501 Public Employee Optional Retirement Program  
 3279 ~~Florida Retirement System Investment Plan.~~

3280 (1) The Trustees of the State Board of Administration  
 3281 shall establish an optional ~~a~~ defined contribution retirement  
 3282 ~~program called the "Florida Retirement System Investment Plan"~~  
 3283 ~~or "investment plan"~~ for members of the Florida Retirement  
 3284 System under which retirement benefits will be provided for  
 3285 eligible employees who elect to participate in the program. The  
 3286 ~~retirement~~ benefits to be provided for or on behalf of

3287 participants in such optional retirement program shall be  
 3288 provided through employee-directed ~~member-directed~~ investments,  
 3289 in accordance with s. 401(a) of the Internal Revenue Code and  
 3290 its related regulations. The employers ~~employer and employee~~  
 3291 shall contribute ~~make contributions~~, as provided in this  
 3292 section, ~~and~~ ss. 121.571, and 121.71~~7~~ to the Public Employee  
 3293 Optional Retirement Program ~~Florida Retirement System Investment~~  
 3294 ~~Plan~~ Trust Fund toward the funding of such optional benefits.

3295 (2) DEFINITIONS.—As used in this part, the term:

3296 (a) "Approved provider" or "provider" means a private  
 3297 sector company that is selected and approved by the state board  
 3298 to offer one or more investment products or services to the  
 3299 optional retirement program ~~investment plan~~. The term includes a  
 3300 bundled provider that offers participants ~~members~~ a range of  
 3301 individually allocated or unallocated investment products and  
 3302 may offer a range of administrative and customer services, which  
 3303 may include accounting and administration of individual  
 3304 participant ~~member~~ benefits and contributions; individual  
 3305 participant ~~member~~ recordkeeping; asset purchase, control, and  
 3306 safekeeping; direct execution of the participant's ~~member's~~  
 3307 instructions as to asset and contribution allocation;  
 3308 calculation of daily net asset values; direct access to  
 3309 participant ~~member~~ account information; periodic reporting to  
 3310 participants ~~members~~, at least quarterly, on account balances  
 3311 and transactions; guidance, advice, and allocation services  
 3312 directly relating to the provider's own investment options or  
 3313 products, but only if the bundled provider complies with the  
 3314 standard of care of s. 404(a) (1) (A-B) of the Employee Retirement

3315 Income Security Act of 1974 (ERISA)<sup>7</sup> and if providing such  
 3316 guidance, advice, or allocation services does not constitute a  
 3317 prohibited transaction under s. 4975(c)(1) of the Internal  
 3318 Revenue Code or s. 406 of ERISA, notwithstanding that such  
 3319 prohibited transaction provisions do not apply to the optional  
 3320 retirement program; a broad array of distribution options; asset  
 3321 allocation; and retirement counseling and education. Private  
 3322 sector companies include investment management companies,  
 3323 insurance companies, depositories, and mutual fund companies.

3324 (b) "Average monthly compensation" means one-twelfth of  
 3325 average final compensation as defined in s. 121.021.

3326 (c) "Covered employment" means employment in a regularly  
 3327 established position as defined in s. 121.021.

3328 (d) "Defined benefit program" means the defined benefit  
 3329 program of the Florida Retirement System administered under part  
 3330 I of this chapter.

3331 (e) "Division" means the Division of Retirement within the  
 3332 department.

3333 (f)~~(d)~~ "Electronic means" means by telephone, if the  
 3334 required information is received on a recorded line, or through  
 3335 Internet access, if the required information is captured online.

3336 (g)~~(e)~~ "Eligible employee" means an officer or employee,  
 3337 as defined in s. 121.021, who:

3338 1. Is a member of, or is eligible for membership in, the  
 3339 Florida Retirement System, including any renewed member of the  
 3340 Florida Retirement System initially enrolled before July 1,  
 3341 2010; or

3342 2. Participates in, or is eligible to participate in, the



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3343 Senior Management Service Optional Annuity Program as  
 3344 established under s. 121.055(6), the State Community College  
 3345 System Optional Retirement Program as established under s.  
 3346 121.051(2)(c), or the State University System Optional  
 3347 Retirement Program established under s. 121.35.

3348  
 3349 The term does not include any member participating in the  
 3350 Deferred Retirement Option Program established under s.  
 3351 121.091(13), a retiree of a state-administered retirement system  
 3352 initially reemployed on or after July 1, 2010, or a mandatory  
 3353 participant of the State University System Optional Retirement  
 3354 Program established under s. 121.35.

3355 (h)~~(f)~~ "Employer" means an employer, as defined in s.  
 3356 121.021, of an eligible employee.

3357 (i)~~(g)~~ "Optional retirement program" or "optional program"  
 3358 "~~Florida Retirement System Investment Plan~~" or "~~investment plan~~"  
 3359 means the Public Employee Optional Retirement Program defined  
 3360 ~~contribution program~~ established under this part.

3361 ~~(h) "Florida Retirement System Pension Plan" or "pension~~  
 3362 ~~plan" means the defined benefit program of the Florida~~  
 3363 ~~Retirement System administered under part I of this chapter.~~

3364 (j)~~(i)~~ "Participant" "~~Member~~" or "~~employee~~" means an  
 3365 eligible employee who enrolls in the investment plan optional  
 3366 program as provided in subsection (4) ~~or~~ a terminated Deferred  
 3367 Retirement Option Program participant ~~member~~ as described in  
 3368 subsection (21), ~~or a beneficiary or alternate payee of a member~~  
 3369 ~~or employee.~~

3370 ~~(j) "Member contributions" or "employee contributions"~~

3371 ~~means the sum of all amounts deducted from the salary of a~~  
 3372 ~~member by his or her employer in accordance with s. 121.71(3)~~  
 3373 ~~and credited to his or her individual account in the investment~~  
 3374 ~~plan, plus any earnings on such amounts and any contributions~~  
 3375 ~~specified in paragraph (5)(c).~~

3376 (k) "Retiree" means a former participant member of the  
 3377 optional retirement program investment plan who has terminated  
 3378 employment and has taken a distribution ~~of vested employee or~~  
 3379 ~~employer contributions~~ as provided in s. 121.591, except for a  
 3380 mandatory distribution of a de minimis account authorized by the  
 3381 state board ~~or a minimum required distribution provided by s.~~  
 3382 ~~401(a)(9) of the Internal Revenue Code.~~

3383 (l) "Vested" or "vesting" means the guarantee that a  
 3384 participant member is eligible to receive a retirement benefit  
 3385 upon completion of the required years of service under the  
 3386 optional retirement program investment plan.

3387 (3) ELIGIBILITY; RETIREMENT SERVICE CREDIT; TRANSFER OF  
 3388 ~~BENEFITS.~~—

3389 (a) Participation in the Public Employee Optional  
 3390 Retirement Program is limited to eligible employees.  
 3391 Participation in the optional retirement program is in lieu of  
 3392 participation in the defined benefit program of the Florida  
 3393 Retirement System.

3394 (b) ~~(a)~~ An eligible employee who is defined benefit  
 3395 retirement program of the Florida Retirement System ~~employed in~~  
 3396 ~~a regularly established position by a state employer on June 1,~~  
 3397 ~~2002; by a district school board employer on September 1, 2002;~~  
 3398 ~~or by a local employer on December 1, 2002, and who is a member~~

3399 of the ~~pension plan~~ at the time of his or her election to  
 3400 participate in the Public Employee Optional Retirement Program  
 3401 ~~investment plan~~ shall retain all retirement service credit  
 3402 earned under the defined benefit retirement program of the  
 3403 Florida Retirement System ~~pension plan~~ as credited under the  
 3404 system and shall be ~~is~~ entitled to a deferred benefit upon  
 3405 termination, if eligible under the system. However, election to  
 3406 participate ~~enroll~~ in the Public Employee Optional Retirement  
 3407 Program ~~investment plan~~ terminates the active membership of the  
 3408 employee in the defined benefit program of the Florida  
 3409 Retirement System ~~pension plan~~, and the service of a participant  
 3410 ~~member~~ in the Public Employee Optional Retirement Program shall  
 3411 ~~investment plan~~ is not be creditable under the ~~pension plan~~  
 3412 defined benefit retirement program of the Florida Retirement  
 3413 System for purposes of benefit accrual but shall be credited ~~is~~  
 3414 ~~creditable~~ for purposes of vesting.

3415 (c)1. ~~(b)~~ Notwithstanding paragraph (b), ~~each (a)~~, an  
 3416 eligible employee who elects to participate in the Public  
 3417 Employee Optional Retirement Program ~~investment plan~~ and  
 3418 establishes one or more individual participant ~~member~~ accounts  
 3419 under the optional program may elect to transfer to the optional  
 3420 program ~~investment plan~~ a sum representing the present value of  
 3421 the employee's accumulated benefit obligation under the defined  
 3422 benefit retirement program of the Florida Retirement System  
 3423 ~~pension plan~~. Upon such transfer, all service credit previously  
 3424 earned under the defined benefit program of the Florida  
 3425 Retirement System shall be ~~pension plan~~ is nullified for  
 3426 purposes of entitlement to a future benefit under the defined

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3427 benefit program of the Florida Retirement System ~~pension plan~~. A  
3428 participant is precluded from transferring ~~member may not~~  
3429 ~~transfer~~ the accumulated benefit obligation balance from the  
3430 defined benefit program upon the expiration of the ~~pension plan~~  
3431 ~~after the time period afforded to enroll for enrolling~~ in the  
3432 optional program ~~investment plan has expired~~.

3433 ~~2.1.~~ For purposes of this subsection, the present value of  
3434 the member's accumulated benefit obligation is based upon the  
3435 member's estimated creditable service and estimated average  
3436 final compensation under the defined benefit program ~~pension~~  
3437 ~~plan~~, subject to recomputation under subparagraph 3. 2. For  
3438 state employees enrolling under subparagraph (4)(a)1., initial  
3439 estimates will ~~shall~~ be based upon creditable service and  
3440 average final compensation as of midnight on June 30, 2002; for  
3441 district school board employees enrolling under subparagraph  
3442 (4)(b)1., initial estimates will ~~shall~~ be based upon creditable  
3443 service and average final compensation as of midnight on  
3444 September 30, 2002; and for local government employees enrolling  
3445 under subparagraph (4)(c)1., initial estimates will ~~shall~~ be  
3446 based upon creditable service and average final compensation as  
3447 of midnight on December 31, 2002. The dates respectively  
3448 specified above shall be construed as ~~are~~ the "estimate date"  
3449 for these employees. The actuarial present value of the  
3450 employee's accumulated benefit obligation shall be based on the  
3451 following:

3452 a. The discount rate and other relevant actuarial  
3453 assumptions used to value the Florida Retirement System Trust  
3454 Fund at the time the amount to be transferred is determined,

3455 consistent with the factors provided in sub-subparagraphs b. and  
 3456 c.

3457 b. A benefit commencement age, based on the member's  
 3458 estimated creditable service as of the estimate date.

3459 ~~e. Except as provided under sub-subparagraph d., for a~~  
 3460 ~~member initially enrolled:~~

3461 ~~(I) Before July 1, 2011, The benefit commencement age~~  
 3462 ~~shall be is~~ the younger of the following, but ~~shall~~ may not be  
 3463 younger than the member's age as of the estimate date:

3464 ~~(I)(A)~~ Age 62; or

3465 ~~(II)(B)~~ The age the member would attain if the member  
 3466 completed 30 years of service with an employer, assuming the  
 3467 member worked continuously from the estimate date, and  
 3468 disregarding any vesting requirement that would otherwise apply  
 3469 under the defined benefit program of the Florida Retirement  
 3470 System pension plan.

3471 ~~(II) On or after July 1, 2011, the benefit commencement~~  
 3472 ~~age is the younger of the following, but may not be younger than~~  
 3473 ~~the member's age as of the estimate date:~~

3474 ~~(A) Age 65; or~~

3475 ~~(B) The age the member would attain if the member~~  
 3476 ~~completed 33 years of service with an employer, assuming the~~  
 3477 ~~member worked continuously from the estimate date, and~~  
 3478 ~~disregarding any vesting requirement that would otherwise apply~~  
 3479 ~~under the pension plan.~~

3480 c.d. For members of the Special Risk Class and for members  
 3481 of the Special Risk Administrative Support Class entitled to  
 3482 retain ~~the~~ special risk normal retirement date:

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3483 ~~(I) Initially enrolled before July 1, 2011,~~ the benefit  
 3484 commencement age shall be ~~is~~ the younger of the following, but  
 3485 shall ~~may~~ not be younger than the member's age as of the  
 3486 estimate date:

3487 (I) ~~(A)~~ Age 55; or

3488 (II) ~~(B)~~ The age the member would attain if the member  
 3489 completed 25 years of service with an employer, assuming the  
 3490 member worked continuously from the estimate date, and  
 3491 disregarding any vesting requirement that would otherwise apply  
 3492 under the defined benefit program of the Florida Retirement  
 3493 System pension plan.

3494 ~~(II) Initially enrolled on or after July 1, 2011,~~ the  
 3495 benefit commencement age ~~is~~ the younger of the following, but  
 3496 ~~may not be younger than the member's age as of the estimate~~  
 3497 ~~date:~~

3498 ~~(A) Age 60; or~~

3499 ~~(B) The age the member would attain if the member~~  
 3500 ~~completed 30 years of service with an employer, assuming the~~  
 3501 ~~member worked continuously from the estimate date, and~~  
 3502 ~~disregarding any vesting requirement that would otherwise apply~~  
 3503 ~~under the pension plan.~~

3504 d.e. The calculation shall ~~must~~ disregard vesting  
 3505 requirements and early retirement reduction factors that would  
 3506 otherwise apply under the defined benefit retirement program  
 3507 pension plan.

3508 3.2. For each participant member who elects to transfer  
 3509 moneys from the defined benefit program pension plan to his or  
 3510 her account in the optional program investment plan, the

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3511 division shall recompute the amount transferred under  
3512 subparagraph 2. ~~not later than 1. within~~ 60 days after the  
3513 actual transfer of funds based upon the participant's ~~member's~~  
3514 actual creditable service and actual final average compensation  
3515 as of the initial date of participation in the optional program  
3516 ~~investment plan~~. If the recomputed amount differs from the  
3517 amount transferred under subparagraph 2. by \$10 or more, the  
3518 division shall:

3519 a. Transfer, or cause to be transferred, from the Florida  
3520 Retirement System Trust Fund to the participant's ~~member's~~  
3521 account in the optional program the excess, if any, of the  
3522 recomputed amount over the previously transferred amount  
3523 together with interest from the initial date of transfer to the  
3524 date of transfer under this subparagraph, based upon ~~the~~  
3525 effective annual interest equal to the assumed return on the  
3526 actuarial investment which was used in the most recent actuarial  
3527 valuation of the system, compounded annually.

3528 b. Transfer, or cause to be transferred, from the  
3529 participant's ~~member's~~ account to the Florida Retirement System  
3530 Trust Fund the excess, if any, of the previously transferred  
3531 amount over the recomputed amount, together with interest from  
3532 the initial date of transfer to the date of transfer under this  
3533 subparagraph, based upon 6 percent effective annual interest,  
3534 compounded annually, pro rata based on the participant's  
3535 ~~member's~~ allocation plan.

3536 ~~3. If contribution adjustments are made as a result of~~  
3537 ~~employer errors or corrections, including plan corrections,~~  
3538 ~~following recomputation of the amount transferred under~~

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3539 ~~subparagraph 1., the member is entitled to the additional~~  
3540 ~~contributions or is responsible for returning any excess~~  
3541 ~~contributions resulting from the correction. However, any return~~  
3542 ~~of such erroneous excess pretax contribution by the plan must be~~  
3543 ~~made within the period allowed by the Internal Revenue Service.~~  
3544 ~~The present value of the member's accumulated benefit obligation~~  
3545 ~~shall not be recalculated.~~

3546 4. As directed by the participant member, the ~~state~~ board  
3547 shall transfer or cause to be transferred the appropriate  
3548 amounts to the designated accounts. The board shall establish  
3549 transfer procedures by rule, but the actual transfer shall not  
3550 be later than ~~within~~ 30 days after the effective date of the  
3551 member's participation in the optional program investment plan  
3552 unless the major financial markets for securities available for  
3553 a transfer are seriously disrupted by an unforeseen event which  
3554 also ~~that~~ causes the suspension of trading on any national  
3555 securities exchange in the country where the securities were  
3556 issued. In that event, such ~~the~~ 30-day period of time may be  
3557 extended by a resolution of the trustees ~~state board~~. Transfers  
3558 are not commissionable or subject to other fees and may be in  
3559 the form of securities or cash, as determined by the state  
3560 board. Such securities shall be ~~are~~ valued as of the date of  
3561 receipt in the participant's ~~member's~~ account.

3562 5. If the ~~state~~ board or the division receives  
3563 notification from the United States Internal Revenue Service  
3564 that this paragraph or any portion of this paragraph will cause  
3565 the retirement system, or a portion thereof, to be disqualified  
3566 for tax purposes under the Internal Revenue Code, then the



3567 | portion that will cause the disqualification does not apply.  
 3568 | Upon such notice, the state board and the division shall notify  
 3569 | the presiding officers of the Legislature.

3570 | (4) PARTICIPATION; ENROLLMENT.—

3571 | (a)1. With respect to an eligible employee who is employed  
 3572 | in a regularly established position on June 1, 2002, by a state  
 3573 | employer:

3574 | a. Any such employee may elect to participate in the  
 3575 | Public Employee Optional Retirement Program investment plan in  
 3576 | lieu of retaining his or her membership in the defined benefit  
 3577 | program of the Florida Retirement System pension plan. The  
 3578 | election must be made in writing or by electronic means and must  
 3579 | be filed with the third-party administrator by August 31, 2002,  
 3580 | or, in the case of an active employee who is on a leave of  
 3581 | absence on April 1, 2002, by the last business day of the 5th  
 3582 | month after ~~following~~ the month the leave of absence concludes.  
 3583 | This election is irrevocable, except as provided in paragraph  
 3584 | (e) ~~(g)~~. Upon making such election, the employee shall be  
 3585 | enrolled as a participant member of the Public Employee Optional  
 3586 | Retirement Program investment plan, the employee's membership in  
 3587 | the Florida Retirement System shall be ~~is~~ governed by the  
 3588 | provisions of this part, and the employee's membership in the  
 3589 | defined benefit program of the Florida Retirement System shall  
 3590 | terminate ~~pension plan terminates~~. The employee's enrollment in  
 3591 | the Public Employee Optional Retirement Program shall be  
 3592 | ~~investment plan is~~ effective the first day of the month for  
 3593 | which a full month's employer contribution is made to the  
 3594 | optional program investment plan.

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3595           b. Any such employee who fails to elect to participate in  
3596 the Public Employee Optional Retirement Program ~~investment plan~~  
3597 within the prescribed time period is deemed to have elected to  
3598 retain membership in the defined benefit program of the Florida  
3599 Retirement System ~~pension plan~~, and the employee's option to  
3600 elect to participate in the optional program ~~investment plan~~ is  
3601 forfeited.

3602           2. With respect to employees who become eligible to  
3603 participate in the Public Employee Optional Retirement Program  
3604 ~~investment plan~~ by reason of employment in a regularly  
3605 established position with a state employer commencing after  
3606 April 1, 2002:

3607           a. Any such employee shall, by default, be enrolled in the  
3608 defined benefit retirement program of the Florida Retirement  
3609 System ~~pension plan~~ at the commencement of employment, and may,  
3610 by the last business day of the 5th month after ~~following~~ the  
3611 employee's month of hire, elect to participate in the Public  
3612 Employee Optional Retirement Program ~~investment plan~~. The  
3613 employee's election must be made in writing or by electronic  
3614 means and must be filed with the third-party administrator. The  
3615 election to participate in the optional program ~~investment plan~~  
3616 is irrevocable, except as provided in paragraph (e) ~~(g)~~.

3617           b. If the employee files such election within the  
3618 prescribed time period, enrollment in the optional program shall  
3619 be ~~investment plan~~ is effective on the first day of employment.  
3620 The employer retirement contributions paid through the month of  
3621 the employee plan change shall be transferred to the optional  
3622 ~~investment~~ program, and, effective the first day of the next

3623 month, the employer shall ~~and employee must~~ pay the applicable  
 3624 contributions based on the employee membership class in the  
 3625 optional program.

3626 c. Any such ~~An~~ employee who fails to elect to participate  
 3627 in the Public Employee Optional Retirement Program investment  
 3628 ~~plan~~ within the prescribed time period is deemed to have elected  
 3629 to retain membership in the defined benefit program of the  
 3630 Florida Retirement System pension plan, and the employee's  
 3631 option to elect to participate in the optional program  
 3632 ~~investment plan~~ is forfeited.

3633 3. With respect to employees who become eligible to  
 3634 participate in the Public Employee Optional Retirement Program  
 3635 ~~investment plan~~ pursuant to s. 121.051(2)(c)3. or s.  
 3636 121.35(3)(i), any such ~~the~~ employee may elect to participate in  
 3637 the Public Employee Optional Retirement Program investment plan  
 3638 in lieu of retaining his or her participation membership in the  
 3639 State Community College System Optional Retirement Program or  
 3640 the State University System Optional Retirement Program. The  
 3641 election must be made in writing or by electronic means and must  
 3642 be filed with the third-party administrator. This election is  
 3643 irrevocable, except as provided in paragraph (e) ~~(g)~~. Upon  
 3644 making such election, the employee shall be enrolled as a  
 3645 participant of member in the Public Employee Optional Retirement  
 3646 Program investment plan, the employee's membership in the  
 3647 Florida Retirement System shall be ~~is~~ governed by the provisions  
 3648 of this part, and the employee's participation in the State  
 3649 Community College System Optional Retirement Program or the  
 3650 State University System Optional Retirement Program shall

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3651 ~~terminate~~ terminates. The employee's enrollment in the Public  
3652 Employee Optional Retirement Program shall be ~~investment plan is~~  
3653 effective ~~on~~ the first day of the month for which a full month's  
3654 employer ~~and employee~~ contribution is made to the optional  
3655 program ~~investment plan~~.

3656 4. For purposes of this paragraph, "state employer" means  
3657 any agency, board, branch, commission, community college,  
3658 department, institution, institution of higher education, or  
3659 water management district of the state, which participates in  
3660 the Florida Retirement System for the benefit of certain  
3661 employees.

3662 (b)1. With respect to an eligible employee who is employed  
3663 in a regularly established position on September 1, 2002, by a  
3664 district school board employer:

3665 a. Any such employee may elect to participate in the  
3666 Public Employee Optional Retirement Program ~~investment plan~~ in  
3667 lieu of retaining his or her membership in the defined benefit  
3668 program of the Florida Retirement System ~~pension plan~~. The  
3669 election must be made in writing or by electronic means and must  
3670 be filed with the third-party administrator by November 30, or,  
3671 in the case of an active employee who is on a leave of absence  
3672 on July 1, 2002, by the last business day of the 5th month after  
3673 ~~following~~ the month the leave of absence concludes. This  
3674 election is irrevocable, except as provided in paragraph (e)  
3675 ~~(g)~~. Upon making such election, the employee shall be enrolled  
3676 as a participant member of the Public Employee Optional  
3677 Retirement Program ~~investment plan~~, the employee's membership in  
3678 the Florida Retirement System shall be ~~is~~ governed by the

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3679 provisions of this part, and the employee's membership in the  
3680 defined benefit program of the Florida Retirement System shall  
3681 terminate ~~pension plan terminates~~. The employee's enrollment in  
3682 the Public Employee Optional Retirement Program shall be  
3683 ~~investment plan is~~ effective the first day of the month for  
3684 which a full month's employer contribution is made to the  
3685 optional investment program.

3686 b. Any such employee who fails to elect to participate in  
3687 the Public Employee Optional Retirement Program ~~investment plan~~  
3688 within the prescribed time period is deemed to have elected to  
3689 retain membership in the defined benefit program of the Florida  
3690 Retirement System ~~pension plan~~, and the employee's option to  
3691 elect to participate in the optional program ~~investment plan~~ is  
3692 forfeited.

3693 2. With respect to employees who become eligible to  
3694 participate in the Public Employee Optional Retirement Program  
3695 ~~investment plan~~ by reason of employment in a regularly  
3696 established position with a district school board employer  
3697 commencing after July 1, 2002:

3698 a. Any such employee shall, by default, be enrolled in the  
3699 defined benefit retirement program of the Florida Retirement  
3700 System ~~pension plan~~ at the commencement of employment, and may,  
3701 by the last business day of the 5th month following the  
3702 employee's month of hire, elect to participate in the Public  
3703 Employee Optional Retirement Program ~~investment plan~~. The  
3704 employee's election must be made in writing or by electronic  
3705 means and must be filed with the third-party administrator. The  
3706 election to participate in the optional program ~~investment plan~~

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3707 is irrevocable, except as provided in paragraph (e) ~~(g)~~.

3708       b. If the employee files such election within the  
3709 prescribed time period, enrollment in the optional program shall  
3710 be investment plan is effective on the first day of employment.  
3711 The employer retirement contributions paid through the month of  
3712 the employee plan change shall be transferred to the optional  
3713 program investment plan, and, effective the first day of the  
3714 next month, the employer shall pay the applicable contributions  
3715 based on the employee membership class in the optional program  
3716 investment plan.

3717       c. Any such employee who fails to elect to participate in  
3718 the Public Employee Optional Retirement Program investment plan  
3719 within the prescribed time period is deemed to have elected to  
3720 retain membership in the defined benefit program of the Florida  
3721 Retirement System pension plan, and the employee's option to  
3722 elect to participate in the optional program investment plan is  
3723 forfeited.

3724       3. For purposes of this paragraph, "district school board  
3725 employer" means any district school board that participates in  
3726 the Florida Retirement System for the benefit of certain  
3727 employees, or a charter school or charter technical career  
3728 center that participates in the Florida Retirement System as  
3729 provided in s. 121.051(2)(d).

3730       (c)1. With respect to an eligible employee who is employed  
3731 in a regularly established position on December 1, 2002, by a  
3732 local employer:

3733       a. Any such employee may elect to participate in the  
3734 Public Employee Optional Retirement Program investment plan in

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3735 lieu of retaining his or her membership in the defined benefit  
3736 program of the Florida Retirement System ~~pension plan~~. The  
3737 election must be made in writing or by electronic means and must  
3738 be filed with the third-party administrator by February 28,  
3739 2003, or, in the case of an active employee who is on a leave of  
3740 absence on October 1, 2002, by the last business day of the 5th  
3741 month following the month the leave of absence concludes. This  
3742 election is irrevocable, except as provided in paragraph (e)  
3743 ~~(g)~~. Upon making such election, the employee shall be enrolled  
3744 as a participant of the Public Employee Optional Retirement  
3745 Program ~~investment plan~~, the employee's membership in the  
3746 Florida Retirement System shall be ~~is~~ governed by the provisions  
3747 of this part, and the employee's membership in the defined  
3748 benefit program of the Florida Retirement System shall terminate  
3749 ~~pension plan terminates~~. The employee's enrollment in the Public  
3750 Employee Optional Retirement Program shall be ~~investment plan is~~  
3751 effective the first day of the month for which a full month's  
3752 employer contribution is made to the optional program ~~investment~~  
3753 ~~plan~~.

3754 b. Any such employee who fails to elect to participate in  
3755 the Public Employee Optional Retirement Program ~~investment plan~~  
3756 within the prescribed time period is deemed to have elected to  
3757 retain membership in the defined benefit program of the Florida  
3758 Retirement System ~~pension plan~~, and the employee's option to  
3759 elect to participate in the optional program ~~investment plan~~ is  
3760 forfeited.

3761 2. With respect to employees who become eligible to  
3762 participate in the Public Employee Optional Retirement Program

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3763 ~~investment plan~~ by reason of employment in a regularly  
3764 established position with a local employer commencing after  
3765 October 1, 2002:

3766 a. Any such employee shall, by default, be enrolled in the  
3767 defined benefit retirement program of the Florida Retirement  
3768 System ~~pension plan~~ at the commencement of employment, and may,  
3769 by the last business day of the 5th month after ~~following~~ the  
3770 employee's month of hire, elect to participate in the Public  
3771 Employee Optional Retirement Program ~~investment plan~~. The  
3772 employee's election must be made in writing or by electronic  
3773 means and must be filed with the third-party administrator. The  
3774 election to participate in the optional program ~~investment plan~~  
3775 is irrevocable, except as provided in paragraph (e) ~~(g)~~.

3776 b. If the employee files such election within the  
3777 prescribed time period, enrollment in the optional program shall  
3778 be ~~investment plan~~ is effective on the first day of employment.  
3779 The employer retirement contributions paid through the month of  
3780 the employee plan change shall be transferred to the optional  
3781 program ~~investment plan~~, and, effective the first day of the  
3782 next month, the employer shall pay the applicable contributions  
3783 based on the employee membership class in the optional program  
3784 ~~investment plan~~.

3785 c. Any such employee who fails to elect to participate in  
3786 the Public Employee Optional Retirement Program ~~investment plan~~  
3787 within the prescribed time period is deemed to have elected to  
3788 retain membership in the defined benefit program of the Florida  
3789 Retirement System ~~pension plan~~, and the employee's option to  
3790 elect to participate in the optional program ~~investment plan~~ is



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3791 forfeited.

3792 3. For purposes of this paragraph, "local employer" means  
3793 any employer not included in paragraph (a) or paragraph (b).

3794 (d) Contributions available for self-direction by a  
3795 participant ~~member~~ who has not selected one or more specific  
3796 investment products shall be allocated as prescribed by the  
3797 ~~state~~ board. The third-party administrator shall notify any such  
3798 participant ~~the member~~ at least quarterly that the participant  
3799 ~~member~~ should take an affirmative action to make an asset  
3800 allocation among the optional program investment products.

3801 ~~(e) On or after July 1, 2011, a member of the pension plan~~  
3802 ~~who obtains a refund of employee contributions retains his or~~  
3803 ~~her prior plan choice upon return to employment in a regularly~~  
3804 ~~established position with a participating employer.~~

3805 ~~(f) A member of the investment plan who takes a~~  
3806 ~~distribution of any contributions from his or her investment~~  
3807 ~~plan account is considered a retiree. A retiree who is initially~~  
3808 ~~reemployed on or after July 1, 2010, is not eligible for renewed~~  
3809 ~~membership.~~

3810 ~~(e)(g)~~ After the period during which an eligible employee  
3811 had the choice to elect the defined benefit program pension plan  
3812 or the optional retirement program investment plan, or the month  
3813 after following the receipt of the eligible employee's plan  
3814 election, if sooner, the employee shall have one opportunity, at  
3815 the employee's discretion, to choose to move from the defined  
3816 benefit program pension plan to the optional retirement program  
3817 investment plan or from the optional retirement program  
3818 investment plan to the defined benefit program pension plan.

3819 Eligible employees may elect to move between Florida Retirement  
 3820 System programs ~~plans~~ only if they are earning service credit in  
 3821 an employer-employee relationship consistent with s.  
 3822 121.021(17)(b), excluding leaves of absence without pay.  
 3823 Effective July 1, 2005, such elections are effective on the  
 3824 first day of the month after ~~following~~ the receipt of the  
 3825 election by the third-party administrator and are not subject to  
 3826 the requirements regarding an employer-employee relationship or  
 3827 receipt of contributions for the eligible employee in the  
 3828 effective month, except when the election is received by the  
 3829 third-party administrator. This paragraph is contingent upon  
 3830 approval from ~~by~~ the Internal Revenue Service for including the  
 3831 choice described herein within the programs offered by the  
 3832 Florida Retirement System.

3833 1. If the employee chooses to move to the optional  
 3834 retirement program ~~investment plan~~, the applicable provisions of  
 3835 this section shall ~~subsection (3)~~ govern the transfer.

3836 2. If the employee chooses to move to the defined benefit  
 3837 program ~~pension plan~~, the employee must transfer from his or her  
 3838 optional retirement program ~~investment plan~~ account, and from  
 3839 other employee moneys as necessary, a sum representing the  
 3840 present value of that employee's accumulated benefit obligation  
 3841 immediately after ~~following~~ the time of such movement,  
 3842 determined assuming that attained service equals the sum of  
 3843 service in the defined benefit program ~~pension plan~~ and service  
 3844 in the optional retirement program ~~investment plan~~. Benefit  
 3845 commencement occurs on the first date the employee is eligible  
 3846 for unreduced benefits, using the discount rate and other

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3847 relevant actuarial assumptions that were used to value the  
3848 defined benefit ~~pension~~ plan liabilities in the most recent  
3849 actuarial valuation. For any employee who, at the time of the  
3850 second election, already maintains an accrued benefit amount in  
3851 the defined benefit program ~~pension plan~~, the then-present value  
3852 of the accrued benefit shall be ~~is~~ deemed part of the required  
3853 transfer amount. The division shall ~~must~~ ensure that the  
3854 transfer sum is prepared using a formula and methodology  
3855 certified by an enrolled actuary. ~~A refund of any employee~~  
3856 ~~contributions or additional member payments made which exceed~~  
3857 ~~the employee contributions that would have accrued had the~~  
3858 ~~member remained in the pension plan and not transferred to the~~  
3859 ~~investment plan is not permitted.~~

3860 3. Notwithstanding subparagraph 2., an employee who  
3861 chooses to move to the defined benefit program ~~pension plan~~ and  
3862 who became eligible to participate in the optional retirement  
3863 program ~~investment plan~~ by reason of employment in a regularly  
3864 established position with a state employer after June 1, 2002; a  
3865 district school board employer after September 1, 2002; or a  
3866 local employer after December 1, 2002, must transfer from his or  
3867 her optional retirement program ~~investment plan~~ account, and  
3868 from other employee moneys as necessary, a sum representing the  
3869 employee's actuarial accrued liability. ~~A refund of any employee~~  
3870 ~~contributions or additional participant payments made which~~  
3871 ~~exceed the employee contributions that would have accrued had~~  
3872 ~~the member remained in the pension plan and not transferred to~~  
3873 ~~the investment plan is not permitted.~~

3874 4. An employee's ability to transfer from the defined

3875 benefit program ~~pension plan~~ to the optional retirement program  
 3876 ~~investment plan~~ pursuant to paragraphs (a)-(d), and the ability  
 3877 of a current employee to have an option to later transfer back  
 3878 into the defined benefit program ~~pension plan~~ under subparagraph  
 3879 2., shall be deemed a significant system amendment. Pursuant to  
 3880 s. 121.031(4), any resulting unfunded liability arising from  
 3881 actual original transfers from the defined benefit program  
 3882 ~~pension plan~~ to the optional program ~~investment plan~~ must be  
 3883 amortized within 30 plan years as a separate unfunded actuarial  
 3884 base independent of the reserve stabilization mechanism defined  
 3885 in s. 121.031(3)(f). For the first 25 years, a direct  
 3886 amortization payment may not be calculated for this base. During  
 3887 this 25-year period, the separate base shall be used to offset  
 3888 the impact of employees exercising their second program election  
 3889 under this paragraph. It is the intent of the Legislature that  
 3890 the actuarial funded status of the defined benefit program  
 3891 ~~pension plan~~ will not be affected by such second program  
 3892 elections in any significant manner, after due recognition of  
 3893 the separate unfunded actuarial base. After ~~Following~~ the  
 3894 initial 25-year period, any remaining balance of the original  
 3895 separate base shall be amortized over the remaining 5 years of  
 3896 the required 30-year amortization period.

3897 5. If the employee chooses to transfer from the optional  
 3898 retirement program ~~investment plan~~ to the defined benefit  
 3899 program ~~pension plan~~ and retains an excess account balance in  
 3900 the optional program ~~investment plan~~ after satisfying the buy-in  
 3901 requirements under this paragraph, the excess may not be  
 3902 distributed until the member retires from the defined benefit

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3903 program ~~pension plan~~. The excess account balance may be rolled  
 3904 over to the defined benefit program ~~pension plan~~ and used to  
 3905 purchase service credit or upgrade creditable service in that  
 3906 program ~~the pension plan~~.

3907 (5) CONTRIBUTIONS.—

3908 (a) Each ~~The employee and~~ employer shall contribute on  
 3909 behalf of each participant in ~~make the required contributions to~~  
 3910 ~~the investment plan based on a percentage of the employee's~~  
 3911 ~~gross monthly compensation~~ Public Employee Optional Retirement  
 3912 Program, as provided in part III of this chapter.

3913 ~~(b) Employee contributions shall be paid as provided in s.~~  
 3914 ~~121.71.~~

3915 ~~(c)~~ The state board, acting as plan fiduciary, shall ~~must~~  
 3916 ensure that all plan assets are held in a trust, pursuant to s.  
 3917 401 of the Internal Revenue Code. The fiduciary shall ~~must~~  
 3918 ensure that said ~~such~~ contributions are allocated as follows:

3919 1. The ~~employer and employee contribution~~ portion  
 3920 earmarked for participant ~~member~~ accounts shall be used to  
 3921 purchase interests in the appropriate investment vehicles for  
 3922 the accounts of each participant as specified by the participant  
 3923 ~~member~~, or in accordance with paragraph (4) (d).

3924 2. The ~~employer contribution~~ portion earmarked for  
 3925 administrative and educational expenses shall be transferred to  
 3926 the board ~~Florida Retirement System Investment Plan Trust Fund~~.

3927 3. The ~~employer contribution~~ portion earmarked for  
 3928 disability benefits shall be transferred to the department  
 3929 ~~Florida Retirement System Trust Fund~~.

3930 ~~(b)(d)~~ Employers ~~The third-party administrator is~~

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3931 responsible for ~~monitoring and~~ notifying participants regarding  
3932 ~~employers of the~~ maximum contribution levels permitted allowed  
3933 ~~for members~~ under the Internal Revenue Code. If a participant  
3934 ~~member~~ contributes to any other tax-deferred plan, he or she ~~the~~  
3935 ~~member~~ is responsible for ensuring that total contributions made  
3936 to the optional program investment plan and to any other such  
3937 plan do not exceed federally permitted maximums.

3938 (c)(e) The Public Employee Optional Retirement Program  
3939 ~~investment plan~~ may accept for deposit into participant member  
3940 accounts contributions in the form of rollovers or direct  
3941 trustee-to-trustee transfers by or on behalf of participants  
3942 ~~members~~, reasonably determined by the ~~state~~ board to be eligible  
3943 for rollover or transfer to the optional retirement program  
3944 ~~investment plan~~ pursuant to the Internal Revenue Code, if such  
3945 contributions are made in accordance with rules as may be  
3946 adopted by the board. Such contributions shall ~~must~~ be accounted  
3947 for in accordance with any applicable Internal Revenue Code  
3948 requirements and rules of the ~~state~~ board.

3949 (6) VESTING REQUIREMENTS.—

3950 ~~(a) A member is fully and immediately vested in all~~  
3951 ~~employee contributions paid to the investment plan as provided~~  
3952 ~~in s. 121.71, plus interest and earnings thereon and less~~  
3953 ~~investment fees and administrative charges.~~

3954 (a)(b)1. With respect to employer contributions paid on  
3955 behalf of the participant member to the optional retirement  
3956 program investment plan, plus interest and earnings thereon and  
3957 less investment fees and administrative charges, a participant  
3958 ~~member~~ is vested after completing 1 work year with an employer,

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3959 including any service while the participant member was a member  
3960 of the defined benefit program ~~pension plan~~ or an optional  
3961 retirement program authorized under s. 121.051(2)(c) or s.  
3962 121.055(6).

3963 2. If the participant member terminates employment before  
3964 satisfying the vesting requirements, the nonvested accumulation  
3965 must be transferred from the participant's member's accounts to  
3966 the state board for deposit and investment by the state board in  
3967 the its suspense account created within the Public Employee  
3968 Optional Retirement Program ~~Florida Retirement System Investment~~  
3969 ~~Plan~~ Trust Fund. If the terminated participant member is  
3970 reemployed as an eligible employee within 5 years, the state  
3971 board shall transfer to the participant's member's account any  
3972 amount previously transferred from the participant's member's  
3973 accounts to the suspense account, plus actual earnings on such  
3974 amount while in the suspense account.

3975 (b)(c)1. With respect to amounts ~~contributed by an~~  
3976 ~~employer and~~ transferred from the defined benefit program  
3977 ~~pension plan~~ to the investment program plan, plus interest and  
3978 earnings, and less investment fees and administrative charges, a  
3979 participant member shall be vested in the amount transferred  
3980 upon meeting the service vesting requirements for the  
3981 participant's member's membership class as set forth in s.  
3982 121.021(29) ~~121.021(45)~~. The third-party administrator shall  
3983 account for such amounts for each participant member. The  
3984 division shall notify the participant member and the third-party  
3985 administrator when the participant member has satisfied the  
3986 vesting period for Florida Retirement System purposes.

3987           2. If the participant ~~member~~ terminates employment before  
 3988 satisfying the vesting requirements, the nonvested accumulation  
 3989 must be transferred from the participant's ~~member's~~ accounts to  
 3990 the state board for deposit and investment by the state board in  
 3991 the suspense account created within the Public Employee Optional  
 3992 Retirement Program ~~Florida Retirement System Investment Plan~~  
 3993 Trust Fund. If the terminated participant ~~member~~ is reemployed  
 3994 as an eligible employee within 5 years, the state board shall  
 3995 transfer to the participant's account ~~member's accounts~~ any  
 3996 amount previously transferred from the participant's ~~member's~~  
 3997 accounts to the suspense account, plus the actual earnings on  
 3998 such amount while in the suspense account.

3999           ~~(c)-(d)~~ Any nonvested accumulations transferred from a  
 4000 participant's ~~member's~~ account to the ~~state board's~~ suspense  
 4001 account shall be forfeited, ~~including accompanying service~~  
 4002 ~~credit,~~ by the participant ~~member~~ if the participant ~~member~~ is  
 4003 not reemployed as an eligible employee within 5 years after  
 4004 termination.

4005           ~~(e)~~ ~~If the member elects to receive any of his or her~~  
 4006 ~~vested employee or employer contributions upon termination of~~  
 4007 ~~employment as provided in s. 121.021(39) (a), except for a~~  
 4008 ~~mandatory distribution of a de minimis account authorized by the~~  
 4009 ~~state board or a minimum required distribution provided by s.~~  
 4010 ~~401(a) (9) of the Internal Revenue Code, the member shall forfeit~~  
 4011 ~~all nonvested employer contributions, and accompanying service~~  
 4012 ~~credit, paid on behalf of the member to the investment plan.~~

4013           (7) BENEFITS.—Public Employee Optional Retirement Program  
 4014 Under the ~~investment plan,~~ benefits must:



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4015 (a) Benefits shall Be provided in accordance with s.  
 4016 401(a) of the Internal Revenue Code.

4017 (b) Benefits shall Accrue in individual accounts that are  
 4018 participant-directed ~~member-directed~~, portable, and funded by  
 4019 employer ~~and employee~~ contributions and earnings thereon.

4020 (c) Benefits shall Be payable in accordance with the  
 4021 provisions of s. 121.591.

4022 (8) ~~INVESTMENT PLAN~~ ADMINISTRATION OF PROGRAM.—

4023 (a) The optional retirement program ~~investment plan~~ shall  
 4024 be administered by the state board and affected employers. The  
 4025 ~~state~~ board may require oaths, by affidavit or otherwise, and  
 4026 acknowledgments from persons in connection with the  
 4027 administration of its statutory duties and responsibilities for  
 4028 this program ~~the investment plan~~. An oath, by affidavit or  
 4029 otherwise, may not be required of an employee participant ~~a~~  
 4030 ~~member~~ at the time of enrollment. Acknowledgment of an  
 4031 employee's election to participate in the program shall be no  
 4032 greater than necessary to confirm the employee's election. The  
 4033 state board shall adopt rules to carry out its statutory duties  
 4034 with respect to administering the optional retirement program  
 4035 ~~investment plan~~, including establishing the roles and  
 4036 responsibilities of affected state, local government, and  
 4037 education-related employers, the state board, the department,  
 4038 and third-party contractors. The department shall adopt rules  
 4039 necessary to administer the optional program ~~investment plan~~ in  
 4040 coordination with the defined benefit program ~~pension plan~~ and  
 4041 the disability benefits available under the optional program  
 4042 ~~investment plan~~.

4043            (b)~~(a)~~1. The state board shall select and contract with a  
 4044 one third-party administrator to provide administrative services  
 4045 if those services cannot be competitively and contractually  
 4046 provided by the Division of Retirement within the Department of  
 4047 Management Services. With the approval of the state board, the  
 4048 third-party administrator may subcontract with other  
 4049 organizations or individuals to provide components of the  
 4050 administrative services. As a cost of administration, the ~~state~~  
 4051 board may compensate any such contractor for its services, in  
 4052 accordance with the terms of the contract, as is deemed  
 4053 necessary or proper by the board. The third-party administrator  
 4054 may not be an approved provider or be affiliated with an  
 4055 approved provider.

4056            2. These administrative services may include, but are not  
 4057 limited to, enrollment of eligible employees, collection of  
 4058 employer ~~and employee~~ contributions, disbursement of such  
 4059 contributions to approved providers in accordance with the  
 4060 allocation directions of participants ~~members~~; services relating  
 4061 to consolidated billing; individual and collective recordkeeping  
 4062 and accounting; asset purchase, control, and safekeeping; and  
 4063 direct disbursement of funds to and from the third-party  
 4064 administrator, the division, the ~~state~~ board, employers,  
 4065 participants ~~members~~, approved providers, and beneficiaries.  
 4066 This section does not prevent or prohibit a bundled provider  
 4067 from providing any administrative or customer service, including  
 4068 accounting and administration of individual participant ~~member~~  
 4069 benefits and contributions; individual participant ~~member~~  
 4070 recordkeeping; asset purchase, control, and safekeeping; direct

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4071 execution of the participant's ~~member's~~ instructions as to asset  
 4072 and contribution allocation; calculation of daily net asset  
 4073 values; direct access to participant ~~member~~ account information;  
 4074 or periodic reporting to participants ~~members~~, at least  
 4075 quarterly, on account balances and transactions, if these  
 4076 services are authorized by the ~~state~~ board as part of the  
 4077 contract.

4078 3. ~~(b)1.~~ The state board shall select and contract with one  
 4079 or more organizations to provide educational services. With  
 4080 approval of the ~~state~~ board, the organizations may subcontract  
 4081 with other organizations or individuals to provide components of  
 4082 the educational services. As a cost of administration, the ~~state~~  
 4083 board may compensate any such contractor for its services in  
 4084 accordance with the terms of the contract, as is deemed  
 4085 necessary or proper by the board. The education organization may  
 4086 not be an approved provider or be affiliated with an approved  
 4087 provider.

4088 4.2. Educational services shall be designed by the ~~state~~  
 4089 board and department to assist employers, eligible employees,  
 4090 participants ~~members~~, and beneficiaries in order to maintain  
 4091 compliance with United States Department of Labor regulations  
 4092 under s. 404(c) of the Employee Retirement Income Security Act  
 4093 of 1974 and to assist employees in their choice of ~~pension plan~~  
 4094 defined benefit or defined contribution ~~investment plan~~  
 4095 retirement alternatives. Educational services include, but are  
 4096 not limited to, disseminating educational materials; providing  
 4097 retirement planning education; explaining the differences  
 4098 between the defined benefit retirement ~~pension~~ plan and the

4099 defined contribution retirement ~~investment~~ plan; and offering  
 4100 financial planning guidance on matters such as investment  
 4101 diversification, investment risks, investment costs, and asset  
 4102 allocation. An approved provider may also provide educational  
 4103 information, including retirement planning and investment  
 4104 allocation information concerning its products and services.

4105 (c)1. In evaluating and selecting a third-party  
 4106 administrator, the ~~state~~ board shall establish criteria under  
 4107 which it shall consider ~~for evaluating~~ the relative capabilities  
 4108 and qualifications of each proposed administrator. In developing  
 4109 such criteria, the ~~state~~ board shall consider:

4110 a. The administrator's demonstrated experience in  
 4111 providing administrative services to public or private sector  
 4112 retirement systems.

4113 b. The administrator's demonstrated experience in  
 4114 providing daily valued recordkeeping to defined contribution  
 4115 plans ~~programs~~.

4116 c. The administrator's ability and willingness to  
 4117 coordinate its activities with the Florida Retirement System  
 4118 employers, the ~~state~~ board, and the division, and to supply to  
 4119 such employers, the board, and the division the information and  
 4120 data they require, including, but not limited to, monthly  
 4121 management reports, quarterly participant ~~member~~ reports, and ad  
 4122 hoc reports requested by the department or ~~state~~ board.

4123 d. The cost-effectiveness and levels of the administrative  
 4124 services provided.

4125 e. The administrator's ability to interact with the  
 4126 participants ~~members~~, the employers, the ~~state~~ board, the

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4127 | division, and the providers; the means by which participants  
4128 | ~~members~~ may access account information, direct investment of  
4129 | contributions, make changes to their accounts, transfer moneys  
4130 | between available investment vehicles, and transfer moneys  
4131 | between investment products; and any fees that apply to such  
4132 | activities.

4133 |       f. Any other factor deemed necessary by the Trustees of  
4134 | the State Board of Administration.

4135 |       2. In evaluating and selecting an educational provider,  
4136 | the ~~state~~ board shall establish criteria under which it shall  
4137 | consider the relative capabilities and qualifications of each  
4138 | proposed educational provider. In developing such criteria, the  
4139 | ~~state~~ board shall consider:

4140 |           a. Demonstrated experience in providing educational  
4141 | services to public or private sector retirement systems.

4142 |           b. Ability and willingness to coordinate its activities  
4143 | with the Florida Retirement System employers, the ~~state~~ board,  
4144 | and the division, and to supply to such employers, the board,  
4145 | and the division the information and data they require,  
4146 | including, but not limited to, reports on educational contacts.

4147 |           c. The cost-effectiveness and levels of the educational  
4148 | services provided.

4149 |           d. Ability to provide educational services via different  
4150 | media, including, but not limited to, the Internet, personal  
4151 | contact, seminars, brochures, and newsletters.

4152 |           e. Any other factor deemed necessary by the Trustees of  
4153 | the State Board of Administration.

4154 |       3. The establishment of the criteria shall be solely

4155 within the discretion of the ~~state~~ board.

4156 (d) The ~~state~~ board shall develop the form and content of  
 4157 any contracts to be offered under the Public Employee Optional  
 4158 Retirement Program investment plan. In developing its ~~the~~  
 4159 contracts, the board must ~~shall~~ consider:

4160 1. The nature and extent of the rights and benefits to be  
 4161 afforded in relation to the required contributions ~~required~~  
 4162 under the program plan.

4163 2. The suitability of the rights and benefits to be  
 4164 afforded ~~provided~~ and the interests of employers in the  
 4165 recruitment and retention of eligible employees.

4166 (e)1. The ~~state~~ board may contract with any consultant for  
 4167 professional services, including legal, consulting, accounting,  
 4168 and actuarial services, deemed necessary to implement and  
 4169 administer the optional program by the Trustees of the State  
 4170 Board of Administration investment plan. The ~~state~~ board may  
 4171 enter into a contract with one or more vendors to provide low-  
 4172 cost investment advice to participants ~~members~~, supplemental to  
 4173 education provided by the third-party administrator. All fees  
 4174 under any such contract shall be paid by those participants  
 4175 ~~members~~ who choose to use the services of the vendor.

4176 2. The department may contract with consultants for  
 4177 professional services, including legal, consulting, accounting,  
 4178 and actuarial services, deemed necessary to implement and  
 4179 administer the optional program investment plan in coordination  
 4180 with the defined benefit program of the Florida Retirement  
 4181 System pension plan. The department, in coordination with the  
 4182 ~~state~~ board, may enter into a contract with the third-party

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4183 administrator in order to coordinate services common to the  
 4184 various programs within the Florida Retirement System.

4185 (f) The third-party administrator shall ~~may~~ not receive  
 4186 direct or indirect compensation from an approved provider,  
 4187 except as specifically provided for in the contract with the  
 4188 ~~state~~ board.

4189 (g) The state board shall receive and resolve participant  
 4190 ~~member~~ complaints against the program, the third-party  
 4191 administrator, or any program vendor or provider; shall resolve  
 4192 any conflict between the third-party administrator and an  
 4193 approved provider if such conflict threatens the implementation  
 4194 or administration of the program or the quality of services to  
 4195 employees; and may resolve any other conflicts. The third-party  
 4196 administrator shall retain all participant ~~member~~ records for at  
 4197 least 5 years for use in resolving any participant ~~member~~  
 4198 conflicts. The state board, the third-party administrator, or a  
 4199 provider is not required to produce documentation or an audio  
 4200 recording to justify action taken with regard to a participant  
 4201 ~~member~~ if the action occurred 5 or more years before the  
 4202 complaint is submitted to the state board. It is presumed that  
 4203 all action taken 5 or more years before the complaint is  
 4204 submitted was taken at the request of the participant ~~member~~ and  
 4205 with the participant's ~~member's~~ full knowledge and consent. To  
 4206 overcome this presumption, the participant ~~member~~ must present  
 4207 documentary evidence or an audio recording demonstrating  
 4208 otherwise.

4209 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

4210 (a) The ~~state~~ board shall develop policy and procedures

4211 for selecting, evaluating, and monitoring the performance of  
 4212 approved providers and investment products to which employees  
 4213 may direct retirement contributions under the program investment  
 4214 plan. In accordance with such policy and procedures, the ~~state~~  
 4215 board shall designate and contract for a number of investment  
 4216 products as determined by the board. The board shall also select  
 4217 one or more bundled providers, ~~each of whom~~ which may offer  
 4218 multiple investment options and related services when, ~~if~~ such  
 4219 an approach is determined by the board to afford ~~provide~~ value  
 4220 to the participants ~~members~~ otherwise not available through  
 4221 individual investment products. Each approved bundled provider  
 4222 may offer investment options that provide participants ~~members~~  
 4223 with the opportunity to invest in each of the following asset  
 4224 classes, to be composed of individual options that represent  
 4225 either a single asset class or a combination thereof: money  
 4226 markets, United States fixed income, United States equities, and  
 4227 foreign stock. The ~~state~~ board shall review and manage all  
 4228 educational materials, contract terms, fee schedules, and other  
 4229 aspects of the approved provider relationships to ensure that no  
 4230 provider is unduly favored or penalized by virtue of its status  
 4231 within the ~~investment~~ plan.

4232 (b) The ~~state~~ board shall consider investment options or  
 4233 products it considers appropriate to give participants ~~members~~  
 4234 the opportunity to accumulate retirement benefits, subject to  
 4235 the following:

4236 1. The Public Employee Optional Retirement Program  
 4237 ~~investment plan~~ must offer a diversified mix of low-cost  
 4238 investment products that span the risk-return spectrum and may



4239 include a guaranteed account as well as investment products,  
 4240 such as individually allocated guaranteed and variable  
 4241 annuities, which meet the requirements of this subsection and  
 4242 combine the ability to accumulate investment returns with the  
 4243 option of receiving lifetime income consistent with the long-  
 4244 term retirement security of a pension plan and similar to the  
 4245 lifetime-income benefit provided by the Florida Retirement  
 4246 System.

4247 2. Investment options or products offered by the group of  
 4248 approved providers may include mutual funds, group annuity  
 4249 contracts, individual retirement annuities, interests in trusts,  
 4250 collective trusts, separate accounts, and other such financial  
 4251 instruments, and may include products that give participants  
 4252 ~~members~~ the option of committing their contributions for an  
 4253 extended time period in an effort to obtain returns higher than  
 4254 those that could be obtained from investment products offering  
 4255 full liquidity.

4256 3. The ~~state~~ board shall ~~may~~ not contract with any ~~a~~  
 4257 provider that imposes a front-end, back-end, contingent, or  
 4258 deferred sales charge, or any other fee that limits or restricts  
 4259 the ability of participants ~~members~~ to select any investment  
 4260 product available in the optional program ~~investment plan~~. This  
 4261 prohibition does not apply to fees or charges that are imposed  
 4262 on withdrawals from products that give participants ~~members~~ the  
 4263 option of committing their contributions for an extended time  
 4264 period in an effort to obtain returns higher than those that  
 4265 could be obtained from investment products offering full  
 4266 liquidity, provided that ~~if~~ the product in question, net of all

4267 fees and charges, produces material benefits relative to other  
 4268 comparable products in the program ~~investment plan~~ offering full  
 4269 liquidity.

4270 4. Fees or charges for insurance features, such as  
 4271 mortality and expense-risk charges, must be reasonable relative  
 4272 to the benefits provided.

4273 (c) In evaluating and selecting approved providers and  
 4274 products, the ~~state~~ board shall establish criteria under which  
 4275 it shall consider ~~for evaluating~~ the relative capabilities and  
 4276 qualifications of each proposed provider company and product. In  
 4277 developing such criteria, the board shall consider the following  
 4278 to the extent such factors may be applied in connection with  
 4279 investment products, services, or providers:

4280 1. Experience in the United States providing retirement  
 4281 products and related financial services under defined  
 4282 contribution retirement plans ~~programs~~.

4283 2. Financial strength and stability which shall be ~~as~~  
 4284 evidenced by the highest ratings assigned by nationally  
 4285 recognized rating services when comparing proposed providers  
 4286 that are so rated.

4287 3. Intrastate and interstate portability of the product  
 4288 offered, including early withdrawal options.

4289 4. Compliance with the Internal Revenue Code.

4290 5. The cost-effectiveness of the product provided and the  
 4291 levels of service supporting the product relative to its  
 4292 benefits and its characteristics, including, without limitation,  
 4293 the level of risk borne by the provider.

4294 6. The provider company's ability and willingness to

4295 coordinate its activities with Florida Retirement System  
 4296 employers, the department, and the ~~state~~ board, and to supply to  
 4297 such ~~the~~ employers, the department, and the board ~~with~~ the  
 4298 information and data they require.

4299 7. The methods available to participants ~~members~~ to  
 4300 interact with the provider company; the means by which  
 4301 participants ~~members~~ may access account information, direct  
 4302 investment of contributions, make changes to their accounts,  
 4303 transfer moneys between available investment vehicles, and  
 4304 transfer moneys between provider companies; and any fees that  
 4305 apply to such activities.

4306 8. The provider company's policies with respect to the  
 4307 transfer of individual account balances, contributions, and  
 4308 earnings thereon, both internally among investment products  
 4309 offered by the provider company and externally between approved  
 4310 providers, as well as any fees, charges, reductions, or  
 4311 penalties that may be applied.

4312 9. An evaluation of specific investment products, taking  
 4313 into account each product's experience in meeting its investment  
 4314 return objectives net of all related fees, expenses, and  
 4315 charges, including, but not limited to, investment management  
 4316 fees, loads, distribution and marketing fees, custody fees,  
 4317 recordkeeping fees, education fees, annuity expenses, and  
 4318 consulting fees.

4319 10. Organizational factors, including, but not limited to,  
 4320 financial solvency, organizational depth, and experience in  
 4321 providing institutional and retail investment services.

4322 (d) By March 1, 2010, the ~~state~~ board shall identify and

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4323 offer at least one terror-free investment product that allocates  
 4324 its funds among securities not subject to divestiture as  
 4325 provided in s. 215.473 if the investment product is deemed by  
 4326 the ~~state~~ board to be consistent with prudent investor  
 4327 standards. No A person may ~~not~~ bring a civil, criminal, or  
 4328 administrative action against an approved provider; the state  
 4329 board; or any employee, officer, director, or trustee of such  
 4330 provider based upon the divestiture of any security or the  
 4331 offering of a terror-free investment product as specified in  
 4332 this paragraph.

4333 (e) As a condition of offering any ~~an~~ investment option or  
 4334 product in the optional retirement program ~~investment plan~~, the  
 4335 approved provider must agree to make the investment product or  
 4336 service available under the most beneficial terms offered to any  
 4337 other customer, subject to approval by the Trustees of the State  
 4338 Board of Administration.

4339 (f) The ~~state~~ board shall regularly review the performance  
 4340 of each approved provider and product and related organizational  
 4341 factors to ensure continued compliance with established  
 4342 selection criteria and with board policy and procedures.  
 4343 Providers and products may be terminated subject to contract  
 4344 provisions. The ~~state~~ board shall adopt procedures to transfer  
 4345 account balances from terminated products or providers to other  
 4346 products or providers in the optional program ~~investment plan~~.

4347 (g)1. An approved provider shall comply with all  
 4348 ~~applicable~~ federal and state securities and insurance laws and  
 4349 regulations applicable to the provider, as well as ~~with~~ the  
 4350 applicable rules and guidelines of the National Association of

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4351 Securities Dealers which govern the ethical marketing of  
 4352 investment products. In furtherance of this mandate, an approved  
 4353 provider must agree in its contract with the ~~state~~ board to  
 4354 establish and maintain a compliance education and monitoring  
 4355 system to supervise the activities of all personnel who directly  
 4356 communicate with individual participants ~~members~~ and recommend  
 4357 investment products, which system is consistent with rules of  
 4358 the National Association of Securities Dealers.

4359 2. Approved provider personnel who directly communicate  
 4360 with individual participants ~~members~~ and who recommend  
 4361 investment products shall make an independent and unbiased  
 4362 determination as to whether an investment product is suitable  
 4363 for a particular participant ~~member~~.

4364 3. The ~~state~~ board shall develop procedures to receive and  
 4365 resolve participant ~~member~~ complaints against a provider or  
 4366 approved provider personnel, and, when ~~if~~ appropriate, refer  
 4367 such complaints to the appropriate agency.

4368 4. Approved providers may not sell or in any way  
 4369 distribute any customer list or participant ~~member~~  
 4370 identification information generated through their offering of  
 4371 products or services through the optional retirement program  
 4372 ~~investment plan~~.

4373 (10) EDUCATION COMPONENT.—

4374 (a) The ~~state~~ board, in coordination with the department,  
 4375 shall provide for an education component for system members in a  
 4376 manner consistent with the provisions of this section. The  
 4377 education component must be available to eligible employees at  
 4378 least 90 days prior to the beginning date of the election period

4379 | for the employees of the respective types of employers.

4380 |       (b) The education component must provide system members  
 4381 | with impartial and balanced information about plan choices. The  
 4382 | education component must involve multimedia formats. Program  
 4383 | comparisons must, to the greatest extent possible, be based upon  
 4384 | the retirement income that different retirement programs may  
 4385 | provide to the participant member. The ~~state~~ board shall monitor  
 4386 | the performance of the contract to ensure that the program is  
 4387 | conducted in accordance with the contract, applicable law, and  
 4388 | the rules of the ~~state~~ board.

4389 |       (c) The ~~state~~ board, in coordination with the department,  
 4390 | shall provide for an initial and ongoing transfer education  
 4391 | component to provide system members with information necessary  
 4392 | to make informed plan choice decisions. The transfer education  
 4393 | component must include, but is not limited to, information on:

4394 |       1. The amount of money available to a member to transfer  
 4395 | to the defined contribution program.

4396 |       2. The features of and differences between the defined  
 4397 | benefit program ~~pension plan~~ and the defined contribution  
 4398 | program, both generally and specifically, as those differences  
 4399 | may affect the member.

4400 |       3. The expected benefit available if the member were to  
 4401 | retire under each of the retirement programs, based on  
 4402 | appropriate alternative sets of assumptions.

4403 |       4. The rate of return from investments in the defined  
 4404 | contribution program and the period of time over which such rate  
 4405 | of return must be achieved to equal or exceed the expected  
 4406 | monthly benefit payable to the member under the defined benefit

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4407 program ~~pension plan~~.

4408       5. The historical rates of return for the investment  
4409 alternatives available in the defined contribution programs.

4410       6. The benefits and historical rates of return on  
4411 investments available in a typical deferred compensation plan or  
4412 a typical plan under s. 403(b) of the Internal Revenue Code for  
4413 which the employee may be eligible.

4414       7. The program choices available to employees of the State  
4415 University System and the comparative benefits of each available  
4416 program, if applicable.

4417       8. Payout options available in each of the retirement  
4418 programs.

4419       (d) An ongoing education and communication component must  
4420 provide system members ~~eligible employees~~ with information  
4421 necessary to make informed decisions about choices within their  
4422 program of membership ~~retirement system~~ and in preparation for  
4423 retirement. The component must include, but is not limited to,  
4424 information concerning:

4425           1. Rights and conditions of membership.

4426           2. Benefit features within the program, options, and  
4427 effects of certain decisions.

4428           3. Coordination of contributions and benefits with a  
4429 deferred compensation plan under s. 457 or a plan under s.  
4430 403(b) of the Internal Revenue Code.

4431           4. Significant program changes.

4432           5. Contribution rates and program funding status.

4433           6. Planning for retirement.

4434       (e) Descriptive materials must be prepared under the

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4435 assumption that the employee is an unsophisticated investor, and  
 4436 all materials used in the education component must be approved  
 4437 by the state board prior to dissemination.

4438 (f) The ~~state~~ board and the department shall also  
 4439 establish a communication component to provide program  
 4440 information to participating employers and the employers'  
 4441 personnel and payroll officers and to explain their respective  
 4442 responsibilities in conjunction with the retirement programs.

4443 (g) Funding for education of new employees may reflect  
 4444 administrative costs to the optional program investment plan and  
 4445 the defined benefit program pension plan.

4446 (h) Pursuant to paragraph subsection (8) (a), all Florida  
 4447 Retirement System employers have an obligation to regularly  
 4448 communicate the existence of the two Florida Retirement System  
 4449 plans and the plan choice in the natural course of administering  
 4450 their personnel functions, using the educational materials  
 4451 supplied by the state board and the Department of Management  
 4452 Services.

4453 (11) PARTICIPANT MEMBER INFORMATION REQUIREMENTS.—The  
 4454 ~~state~~ board shall ensure that each participant member is  
 4455 provided a quarterly statement that accounts for the  
 4456 contributions made on behalf of such participant ~~the member~~; the  
 4457 interest and investment earnings thereon; and any fees,  
 4458 penalties, or other deductions that apply thereto. At a minimum,  
 4459 such statements must:

4460 (a) Indicate the participant's member's investment  
 4461 options.

4462 (b) State the market value of the account at the close of



4463 the current quarter and previous quarter.

4464 (c) Show account gains and losses for the period and

4465 changes in account accumulation unit values for the period

4466 ~~quarter~~.

4467 (d) Itemize account contributions for the quarter.

4468 (e) Indicate any account changes due to adjustment of

4469 contribution levels, reallocation of contributions, balance

4470 transfers, or withdrawals.

4471 (f) Set forth any fees, charges, penalties, and deductions

4472 that apply to the account.

4473 (g) Indicate the amount of the account in which the

4474 participant member is fully vested and the amount of the account

4475 in which the participant member is not vested.

4476 (h) Indicate each investment product's performance

4477 relative to an appropriate market benchmark.

4478

4479 The third-party administrator shall provide quarterly and annual

4480 summary reports to the ~~state~~ board and any other reports

4481 requested by the department or the ~~state~~ board. In any

4482 solicitation or offer of coverage under an optional retirement

4483 program ~~the investment plan~~, a provider company shall be

4484 governed by the contract readability provisions of s. 627.4145,

4485 notwithstanding s. 627.4145(6)(c). In addition, all descriptive

4486 materials must be prepared under the assumption that the

4487 participant member is an unsophisticated investor. Provider

4488 companies must maintain an internal system of quality assurance,

4489 have proven functional systems that are date-calculation

4490 compliant, and be subject to a due-diligence inquiry that proves

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4491 their capacity and fitness to undertake service  
 4492 responsibilities.

4493 (12) ADVISORY COUNCIL TO PROVIDE ADVICE AND ASSISTANCE.—

4494 The Investment Advisory Council, ~~created pursuant to s. 215.444,~~  
 4495 shall assist the ~~state~~ board in implementing and administering  
 4496 the Public Employee Optional Retirement Program investment plan.  
 4497 The Investment Advisory council, created pursuant to s. 215.444,  
 4498 shall review the ~~state~~ board's initial recommendations regarding  
 4499 the criteria to be used in selecting and evaluating approved  
 4500 providers and investment products. The council may provide  
 4501 comments on the recommendations to the ~~state~~ board within 45  
 4502 days after receiving the initial recommendations. The ~~state~~  
 4503 board shall make the final determination as to whether any  
 4504 investment provider or product, any contractor, or any and all  
 4505 contract provisions shall be ~~are~~ approved for the program  
 4506 ~~investment plan~~.

4507 (13) FEDERAL REQUIREMENTS.—

4508 (a) Provisions of This section shall be construed, and the  
 4509 Public Employee Optional Retirement Program investment plan  
 4510 shall be administered, so as to comply with the Internal Revenue  
 4511 Code, 26 U.S.C., and specifically with plan qualification  
 4512 requirements imposed on governmental plans under s. 401(a) of  
 4513 the Internal Revenue Code. The ~~state~~ board shall have the power  
 4514 and authority to ~~may~~ adopt rules reasonably necessary to  
 4515 establish or maintain the qualified status of the Optional  
 4516 Retirement Program investment plan under the Internal Revenue  
 4517 Code and to implement and administer the Optional Retirement  
 4518 Program investment plan in compliance with the Internal Revenue

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4519 Code and ~~as designated under~~ this part; provided however, that  
 4520 the board shall not have the authority to adopt any rule which  
 4521 makes a substantive change to the Optional Retirement Program  
 4522 ~~investment plan~~ as designed by this part.

4523 (b) Any section or provision of this chapter which is  
 4524 susceptible to more than one construction must ~~shall~~ be  
 4525 interpreted in favor of the construction most likely to satisfy  
 4526 requirements imposed by s. 401(a) of the Internal Revenue Code.

4527 (c) Contributions payable under this section for any  
 4528 limitation year may not exceed the maximum amount allowable for  
 4529 qualified defined contribution pension plans under applicable  
 4530 provisions of the Internal Revenue Code. If an employee who has  
 4531 elected to participate ~~is enrolled~~ in the Public Employee  
 4532 Optional Retirement Program investment plan participates in any  
 4533 other plan that is maintained by the participating employer,  
 4534 benefits that accrue under the Public Employee Optional  
 4535 Retirement Program investment plan shall be considered primary  
 4536 for any aggregate limitation applicable under s. 415 of the  
 4537 Internal Revenue Code.

4538 (14) INVESTMENT POLICY STATEMENT.—

4539 (a) Investment products and approved providers selected  
 4540 for the Public Employee Optional Retirement Program shall  
 4541 ~~investment plan must~~ conform with the Public Employee Optional  
 4542 Retirement Program Florida Retirement System Investment Plan  
 4543 Investment Policy Statement, herein referred to as the  
 4544 "statement," as developed and approved by the trustees of the  
 4545 State Board of Administration. The statement must include, among  
 4546 other items, the investment objectives of the Public Employee

4547 Optional Retirement Program ~~investment plan~~, manager selection  
 4548 and monitoring guidelines, and performance measurement criteria.  
 4549 As required from time to time, the executive director of the  
 4550 state board may present recommended changes in the statement to  
 4551 the board for approval.

4552 (b) Prior to presenting the statement, or any recommended  
 4553 changes thereto, to the state board, the executive director of  
 4554 the board shall present such statement or changes to the  
 4555 Investment Advisory Council for review. The council shall  
 4556 present the results of its review to the board prior to the  
 4557 board's final approval of the statement or changes in the  
 4558 statement.

4559 (15) STATEMENT OF FIDUCIARY STANDARDS AND  
 4560 RESPONSIBILITIES.—

4561 (a) Investment of optional defined contribution retirement  
 4562 plan assets shall be made for the sole interest and exclusive  
 4563 purpose of providing benefits to plan participants ~~members~~ and  
 4564 beneficiaries and defraying reasonable expenses of administering  
 4565 the plan. The program's assets are to ~~shall~~ be invested, on  
 4566 behalf of the program participants, ~~members~~ with the care,  
 4567 skill, and diligence that a prudent person acting in a like  
 4568 manner would undertake. The performance of the investment duties  
 4569 set forth in this paragraph shall comply with the fiduciary  
 4570 standards set forth in the Employee Retirement Income Security  
 4571 Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). In case of  
 4572 conflict with other provisions of law authorizing investments,  
 4573 the investment and fiduciary standards set forth in this  
 4574 subsection shall prevail.

4575 (b) If a participant member or beneficiary of the Public  
 4576 Employee Optional Retirement Program investment plan exercises  
 4577 control over the assets in his or her account, as determined by  
 4578 reference to regulations of the United States Department of  
 4579 Labor under s. 404(c) of the Employee Retirement Income Security  
 4580 Act of 1974 and all applicable laws governing the operation of  
 4581 the program, no a program fiduciary shall be ~~is not~~ liable for  
 4582 any loss to a participant's member's or beneficiary's account  
 4583 which results from such participant's the member's or  
 4584 beneficiary's exercise of control.

4585 (c) Subparagraph (8) (b) ~~4.2.~~ and paragraph (15) (b)  
 4586 incorporate the federal law concept of participant control,  
 4587 established by regulations of the United States Department of  
 4588 Labor under s. 404(c) of the Employee Retirement Income Security  
 4589 Act of 1974 (ERISA). The purpose of this paragraph is to assist  
 4590 employers and the State Board of Administration in maintaining  
 4591 compliance with s. 404(c), while avoiding unnecessary costs and  
 4592 eroding participant member benefits under the Public Employee  
 4593 Optional Retirement Program investment plan. Pursuant to 29  
 4594 C.F.R. s. 2550.404c-1(b) (2) (i) (B) (1) (viii), the State Board of  
 4595 Administration or its designated agents shall deliver to ~~members~~  
 4596 participants of the Public Employee Optional Retirement Program  
 4597 ~~investment plan~~ a copy of the prospectus most recently provided  
 4598 to the plan, and, pursuant to 29 C.F.R. s. 2550.404c-  
 4599 1(b) (2) (i) (B) (2) (ii), shall provide such participants ~~members~~ an  
 4600 opportunity to obtain this information, except that:

- 4601 1. The requirement to deliver a prospectus shall be deemed  
 4602 to be satisfied by delivery of a fund profile ~~or summary profile~~

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4603 that contains the information that would be included in a  
4604 summary prospectus as described by Rule 498 under the Securities  
4605 Act of 1933, 17 C.F.R. s. 230.498. When ~~If~~ the transaction fees,  
4606 expense information or other information provided by a mutual  
4607 fund in the prospectus does not reflect terms negotiated by the  
4608 State Board of Administration or its designated agents, the  
4609 aforementioned requirement is deemed to be satisfied by delivery  
4610 of a separate document described by Rule 498 substituting  
4611 accurate information; and

4612 2. Delivery shall be deemed to have been effected if  
4613 delivery is through electronic means and the following standards  
4614 are satisfied:

4615 a. Electronically-delivered documents are prepared and  
4616 provided consistent with style, format, and content requirements  
4617 applicable to printed documents;

4618 b. Each participant member is provided timely and adequate  
4619 notice of the documents that are to be delivered, and their  
4620 significance thereof, and of the participant's ~~member's~~ right to  
4621 obtain a paper copy of such documents free of charge;

4622 c. (I) Participants ~~Members~~ have adequate access to the  
4623 electronic documents, at locations such as their worksites or  
4624 public facilities, and have the ability to convert the documents  
4625 to paper free of charge by the State Board of Administration,  
4626 and the board or its designated agents take appropriate and  
4627 reasonable measures to ensure that the system for furnishing  
4628 electronic documents results in actual receipt, or.

4629 (II) Participants ~~Members~~ have provided consent to receive  
4630 information in electronic format, which consent may be revoked;

4631 and  
 4632 d. The State Board of Administration, or its designated  
 4633 agent, actually provides paper copies of the documents free of  
 4634 charge, upon request.

4635 (16) DISABILITY BENEFITS.—For any participant ~~member~~ of  
 4636 the optional retirement program investment plan who becomes  
 4637 totally and permanently disabled, benefits shall ~~must~~ be paid in  
 4638 accordance with the provisions of s. 121.591.

4639 (17) SOCIAL SECURITY COVERAGE.—Social security coverage  
 4640 shall be provided for all officers and employees who become  
 4641 participants ~~members~~ of the optional program investment plan.  
 4642 Any modification of the present agreement with the Social  
 4643 Security Administration, or referendum required under the Social  
 4644 Security Act, for the purpose of providing social security  
 4645 coverage for any member shall be requested by the state agency  
 4646 in compliance with the applicable provisions of the Social  
 4647 Security Act governing such coverage. However, retroactive  
 4648 social security coverage for service prior to December 1, 1970,  
 4649 with the employer shall ~~may~~ not be provided for any member who  
 4650 was not covered under the agreement as of November 30, 1970.

4651 (18) RETIREE HEALTH INSURANCE SUBSIDY.—All officers and  
 4652 employees who are participants ~~members~~ of the ~~investment plan~~  
 4653 ~~are~~ optional program shall be eligible to receive the retiree  
 4654 health insurance subsidy, subject to the provisions of s.  
 4655 112.363.

4656 (19) PARTICIPANT ~~MEMBER~~ RECORDS.—Personal identifying  
 4657 information of a participant ~~member~~ in the Public Employee  
 4658 Optional Retirement Program investment plan contained in Florida

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4659 Retirement System records held by the State Board of  
4660 Administration or the Department of Management Services is  
4661 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
4662 Constitution.

4663 (20) DESIGNATION OF BENEFICIARIES.—

4664 (a) Each participant member may, ~~by electronic means or~~ on  
4665 a form provided for that purpose, signed and filed with the  
4666 third-party administrator, designate a choice of one or more  
4667 persons, named sequentially or jointly, as his or her  
4668 beneficiary who shall receive ~~for receiving~~ the benefits, if  
4669 any, which may be payable pursuant to this chapter in the event  
4670 of the participant's member's death. If no beneficiary is named  
4671 in this manner, or if no beneficiary designated by the  
4672 participant member survives the participant member, the  
4673 beneficiary shall be the spouse of the deceased, if living. If  
4674 the participant's member's spouse is not alive at his or her ~~the~~  
4675 ~~time of the member's~~ death, the beneficiary shall be the living  
4676 children of the participant member. If no children survive, the  
4677 beneficiary shall be the participant's member's father or  
4678 mother, if living; otherwise, the beneficiary shall be the  
4679 participant's member's estate. The beneficiary most recently  
4680 designated by a participant on a form or letter filed with the  
4681 third-party administrator member shall be the beneficiary  
4682 entitled to any benefits payable at the time of the  
4683 participant's member's death. Notwithstanding any other  
4684 provision in this subsection to the contrary ~~However~~, for a  
4685 participant member who dies prior to his or her effective date  
4686 of retirement, the spouse at the time of death shall be the



4687 participant's ~~member's~~ beneficiary unless such participant ~~the~~  
 4688 ~~member~~ designates a different beneficiary as provided in this  
 4689 subsection subsequent to the participant's ~~member's~~ most recent  
 4690 marriage.

4691 (b) If a participant ~~member~~ designates a primary  
 4692 beneficiary other than the participant's ~~member's~~ spouse, the  
 4693 participant's ~~member's~~ spouse must sign the beneficiary  
 4694 designation form to acknowledge the designation. This  
 4695 requirement does not apply to the designation of one or more  
 4696 contingent beneficiaries to receive benefits remaining upon the  
 4697 death of the primary beneficiary or beneficiaries.

4698 (c) Notwithstanding the participant's ~~member's~~ designation  
 4699 of benefits to be paid through a trust to a beneficiary that is  
 4700 a natural person, and notwithstanding the provisions of the  
 4701 trust, benefits shall ~~must~~ be paid directly to the beneficiary  
 4702 if the person is no longer a minor or an incapacitated person as  
 4703 defined in s. 744.102.

4704 (21) PARTICIPATION BY TERMINATED DEFERRED RETIREMENT  
 4705 OPTION PROGRAM PARTICIPANTS ~~MEMBERS~~.--Notwithstanding any ~~other~~  
 4706 provision of law to the contrary, participants ~~members~~ in the  
 4707 Deferred Retirement Option Program offered under part I may,  
 4708 after conclusion of their participation in the program, elect to  
 4709 roll over or authorize a direct trustee-to-trustee transfer to  
 4710 an account under the Public Employee Optional Retirement Program  
 4711 ~~investment plan~~ of their Deferred Retirement Option Program  
 4712 proceeds distributed as provided under s. 121.091(13)(c)5. The  
 4713 transaction must constitute an "eligible rollover distribution"  
 4714 within the meaning of s. 402(c)(4) of the Internal Revenue Code.

4715           (a) The Public Employee Optional Retirement Program  
 4716 ~~investment plan~~ may accept such amounts for deposit into  
 4717 participant member accounts as provided in paragraph (5) ~~(c)(e)~~.

4718           (b) The affected participant member shall direct the  
 4719 investment of his or her investment account; however, unless he  
 4720 or she becomes a renewed member of the Florida Retirement System  
 4721 under s. 121.122 and elects to participate in the Public  
 4722 Employee Optional Retirement Program investment plan, employer  
 4723 ~~ne~~ contributions may not be made to the participant's member's  
 4724 account as provided under paragraph (5) (a).

4725           (c) The state board or the department is not responsible  
 4726 for locating those persons who may be eligible to participate in  
 4727 the Public Employee Optional Retirement Program investment plan  
 4728 under this subsection.

4729           (22) CREDIT FOR MILITARY SERVICE.—Creditable service of  
 4730 any member of the Public Employee Optional Retirement Program  
 4731 shall include investment plan includes military service in the  
 4732 Armed Forces of the United States as provided in the conditions  
 4733 outlined in s. 121.111(1).

4734           Section 27. Section 121.4502, Florida Statutes, is amended  
 4735 to read:

4736           121.4502 Public Employee Optional Retirement Program  
 4737 ~~Florida Retirement System Investment Plan Trust Fund.—~~

4738           (1) The Public Employee Optional Retirement Program  
 4739 ~~Florida Retirement System Investment Plan Trust Fund~~ is created  
 4740 to hold the assets of the Public Employee Optional Retirement  
 4741 Program Florida Retirement System Investment Plan in trust for  
 4742 the exclusive benefit of such program's participants ~~the plan's~~

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4743 ~~members~~ and beneficiaries, and for the payment of reasonable  
 4744 administrative expenses of the program plan, in accordance with  
 4745 s. 401 of the Internal Revenue Code, and shall be administered  
 4746 by the State Board of Administration as trustee. Funds shall be  
 4747 credited to the trust fund as provided in this part, to be used  
 4748 for the purposes of this part. The trust fund is exempt from the  
 4749 service charges imposed by s. 215.20.

4750 (2) The Public Employee Optional Retirement Program  
 4751 ~~Florida Retirement System Investment Plan~~ Trust Fund is a  
 4752 retirement trust fund of the Florida Retirement System that  
 4753 accounts for retirement plan assets held by the state in a  
 4754 trustee capacity as a fiduciary for individual participants in  
 4755 the Public Employee Optional Retirement Program ~~Florida~~  
 4756 ~~Retirement System Investment Plan~~ and, pursuant to s. 19(f),  
 4757 Art. III of the State Constitution, is not subject to  
 4758 termination.

4759 (3) A forfeiture account shall be created within the  
 4760 Public Employee Optional Retirement Program ~~Florida Retirement~~  
 4761 ~~System Investment Plan~~ Trust Fund to hold the assets derived  
 4762 from the forfeiture of benefits by participants. Pursuant to a  
 4763 private letter ruling from the Internal Revenue Service, the  
 4764 forfeiture account may be used only for paying expenses of the  
 4765 Public Employee Optional Retirement Program ~~Florida Retirement~~  
 4766 ~~System Investment Plan~~ and reducing future employer  
 4767 contributions to the program. Consistent with Rulings 80-155 and  
 4768 74-340 of the Internal Revenue Service, unallocated reserves  
 4769 within the forfeiture account must be used as quickly and as  
 4770 prudently as possible considering the state board's fiduciary

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4771 duty. Expected withdrawals from the account must endeavor to  
 4772 reduce the account to zero each fiscal year.

4773 Section 28. Subsections (1) and (3) of section 121.4503,  
 4774 Florida Statutes, are amended to read:

4775 121.4503 Florida Retirement System Contributions Clearing  
 4776 Trust Fund.—

4777 (1) The Florida Retirement System Contributions Clearing  
 4778 Trust Fund is created as a clearing fund for disbursing employer  
 4779 ~~and employee~~ contributions to the component plans of the Florida  
 4780 Retirement System and shall be administered by the Department of  
 4781 Management Services. Funds shall be credited to the trust fund  
 4782 as provided in this chapter and shall be held in trust for the  
 4783 contributing ~~employees and~~ employers until such time as the  
 4784 assets are transferred by the department to the Florida  
 4785 Retirement System Trust Fund, the Public Employee Optional  
 4786 Retirement Program ~~Florida Retirement System Investment Plan~~  
 4787 Trust Fund, or other trust funds as authorized by law, to be  
 4788 used for the purposes of this chapter. The trust fund is exempt  
 4789 from the service charges imposed by s. 215.20.

4790 (3) The Department of Management Services may adopt rules  
 4791 governing the receipt and disbursement of amounts received by  
 4792 the Florida Retirement System Contributions Clearing Trust Fund  
 4793 from employers ~~and employees~~ contributing to the component plans  
 4794 of the Florida Retirement System.

4795 Section 29. Section 121.571, Florida Statutes, is amended  
 4796 to read:

4797 121.571 Contributions.—Contributions to the Public  
 4798 Employee Optional Retirement Program ~~Florida Retirement System~~

4799 ~~Investment Plan~~ shall be made as follows:

4800 (1) NONCONTRIBUTORY CONTRIBUTORY PLAN.—Each employer ~~and~~  
 4801 ~~employee~~ shall accomplish the submit contributions ~~as~~ required  
 4802 by s. 121.71 by a procedure in which no employee's gross salary  
 4803 shall be reduced.

4804 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund  
 4805 the retirement and disability benefits provided under this part  
 4806 shall must be based on the uniform contribution rates  
 4807 established by s. 121.71 and on the membership class or subclass  
 4808 of the participant member. Such contributions shall must be  
 4809 allocated as provided in ss. 121.72 and 121.73.

4810 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR  
 4811 RETIREE HEALTH INSURANCE SUBSIDY.—Contributions required under  
 4812 this section shall be s. 121.71 are in addition to employer and  
 4813 member contributions required for social security and the  
 4814 Retiree Health Insurance Subsidy Trust Fund as provided in  
 4815 ~~required under~~ ss. 112.363, 121.052, 121.055, and 121.071, as  
 4816 appropriate.

4817 Section 30. Section 121.591, Florida Statutes, is amended  
 4818 to read:

4819 121.591 ~~Payment of Benefits payable under the Public~~  
 4820 Employee Optional Retirement Program of the Florida Retirement  
 4821 System.—Benefits may not be paid under this section ~~the Florida~~  
 4822 ~~Retirement System Investment Plan~~ unless the member has  
 4823 terminated employment as provided in s. 121.021(39)(a) or is  
 4824 deceased and a proper application has been filed in the manner  
 4825 ~~as~~ prescribed by the state board or the department. ~~Before~~  
 4826 ~~termination of employment, benefits, including employee~~

4827 ~~contributions, are not payable under the investment plan for~~  
 4828 ~~employee hardships, unforeseeable emergencies, loans, medical~~  
 4829 ~~expenses, educational expenses, purchase of a principal~~  
 4830 ~~residence, payments necessary to prevent eviction or foreclosure~~  
 4831 ~~on an employee's principal residence, or any other reason prior~~  
 4832 ~~to termination from all employment relationships with~~  
 4833 ~~participating employers.~~ The state board or department, as  
 4834 appropriate, may cancel an application for retirement benefits  
 4835 when ~~if~~ the member or beneficiary fails to timely provide the  
 4836 information and documents required by this chapter and the rules  
 4837 of the state board and department. In accordance with their  
 4838 respective responsibilities as provided herein, the State Board  
 4839 of Administration and the Department of Management Services  
 4840 shall adopt rules establishing procedures for application for  
 4841 retirement benefits and for the cancellation of such application  
 4842 when ~~if~~ the required information or documents are not received.  
 4843 The State Board of Administration and the Department of  
 4844 Management Services, as appropriate, are authorized to cash out  
 4845 a de minimis account of a participant ~~member~~ who has been  
 4846 terminated from Florida Retirement System covered employment for  
 4847 a minimum of 6 calendar months. A de minimis account is an  
 4848 account containing employer ~~and employee~~ contributions and  
 4849 accumulated earnings of not more than \$5,000 made under the  
 4850 provisions of this chapter. Such cash-out must either be a  
 4851 complete lump-sum liquidation of the account balance, subject to  
 4852 the provisions of the Internal Revenue Code, or a lump-sum  
 4853 direct rollover distribution paid directly to the custodian of  
 4854 an eligible retirement plan, as defined by the Internal Revenue

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4855 Code, on behalf of the participant member. ~~Any nonvested~~  
 4856 ~~accumulations and associated service credit, including amounts~~  
 4857 ~~transferred to the suspense account of the Florida Retirement~~  
 4858 ~~System Investment Plan Trust Fund authorized under s.~~  
 4859 ~~121.4501(6), shall be forfeited upon payment of any vested~~  
 4860 ~~benefit to a member or beneficiary, except for de minimis~~  
 4861 ~~distributions or minimum required distributions as provided~~  
 4862 ~~under this section.~~ If any financial instrument issued for the  
 4863 payment of retirement benefits under this section is not  
 4864 presented for payment within 180 days after the last day of the  
 4865 month in which it was originally issued, the third-party  
 4866 administrator or other duly authorized agent of the State Board  
 4867 of Administration shall cancel the instrument and credit the  
 4868 amount of the instrument to the suspense account of the Public  
 4869 Employee Optional Retirement Program ~~Florida Retirement System~~  
 4870 ~~Investment Plan~~ Trust Fund authorized under s. 121.4501(6). Any  
 4871 such amounts transferred to the suspense account are payable  
 4872 upon a proper application, not to include earnings thereon, as  
 4873 provided in this section, within 10 years after the last day of  
 4874 the month in which the instrument was originally issued, after  
 4875 which time such amounts and any earnings thereon ~~attributable to~~  
 4876 ~~employer contributions~~ shall be forfeited. Any such forfeited  
 4877 amounts are assets of the Public Employee Optional Retirement  
 4878 Program trust fund and are not subject to the provisions of  
 4879 chapter 717.

4880 (1) NORMAL BENEFITS.—Under the Public Employee Optional  
 4881 Retirement Program ~~investment plan~~:

4882 (a) Benefits in the form of vested accumulations as

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4883 described in s. 121.4501(6) are payable under this subsection in  
4884 accordance with the following terms and conditions:

4885 1. To the extent vested, benefits are payable only to a  
4886 participant member, ~~an alternate payee of a qualified domestic~~  
4887 ~~relations order, or a beneficiary.~~

4888 2. Benefits shall be paid by the third-party administrator  
4889 or designated approved providers in accordance with the law, the  
4890 contracts, and any applicable board rule or policy.

4891 3. To receive benefits, the participant member must be  
4892 terminated from all employment with all Florida Retirement  
4893 System employers, as provided in s. 121.021(39).

4894 4. Benefit payments may not be made until the participant  
4895 ~~member~~ has been terminated for 3 calendar months, except that  
4896 the ~~state~~ board may authorize by rule for the distribution of up  
4897 to 10 percent of the participant's ~~member's~~ account after being  
4898 terminated for 1 calendar month if the participant member has  
4899 reached the normal retirement date as defined in s. 121.021 of  
4900 the defined benefit plan.

4901 5. If a member or former member of the Florida Retirement  
4902 System receives an invalid distribution from the Public Employee  
4903 Optional Retirement Program Trust Fund, such person must ~~either~~  
4904 repay the full invalid distribution to the trust fund ~~amount~~  
4905 within 90 days after receipt of final notification by the state  
4906 board or the third-party administrator that the distribution was  
4907 ~~invalid, or, in lieu of repayment, the member must terminate~~  
4908 ~~employment from all participating employers.~~ If such person  
4909 fails to repay the full invalid distribution within 90 days  
4910 after receipt of final notification, the person may be deemed



4911 | retired from the optional retirement program ~~investment plan~~ by  
 4912 | the state board, as provided pursuant to s. 121.4501(2)(k), and  
 4913 | is subject to s. 121.122. If such person is deemed retired by  
 4914 | the state board, any joint and several liability set out in s.  
 4915 | 121.091(9)(d)2. becomes null and is void, and the state board,  
 4916 | the department, or the employing agency is not liable for gains  
 4917 | on payroll contributions that have not been deposited to the  
 4918 | person's account in the retirement program ~~investment plan~~,  
 4919 | pending resolution of the invalid distribution. The member or  
 4920 | former member who has been deemed retired or who has been  
 4921 | determined by the ~~state~~ board to have taken an invalid  
 4922 | distribution may appeal the agency decision through the  
 4923 | complaint process as provided under s. 121.4501(9)(g)3. As used  
 4924 | in this subparagraph, the term "invalid distribution" means any  
 4925 | distribution from an account in the optional retirement program  
 4926 | ~~investment plan~~ which is taken in violation of this section, s.  
 4927 | 121.091(9), or s. 121.4501.

4928 | (b) If a participant ~~member~~ elects to receive his or her  
 4929 | benefits upon termination of employment as defined in s.  
 4930 | 121.021, the participant ~~member~~ must submit a written  
 4931 | application or an application by electronic means to the third-  
 4932 | party administrator indicating his or her preferred distribution  
 4933 | date and selecting an authorized method of distribution as  
 4934 | provided in paragraph (c). The participant ~~member~~ may defer  
 4935 | receipt of benefits until he or she chooses to make such  
 4936 | application, subject to federal requirements.

4937 | (c) Upon receipt by the third-party administrator of a  
 4938 | properly executed application for distribution of benefits, the

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4939 total accumulated benefit shall be ~~is~~ payable to the participant  
 4940 ~~member pro rata across all Florida Retirement System benefit~~  
 4941 ~~sources~~ as:

4942 1. A lump-sum ~~or partial~~ distribution to the participant  
 4943 ~~member;~~

4944 2. A lump-sum direct rollover distribution whereby all  
 4945 accrued benefits, plus interest and investment earnings, are  
 4946 paid from the participant's ~~member's~~ account directly to the  
 4947 custodian of an eligible retirement plan, as defined in s.  
 4948 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
 4949 participant ~~member;~~ or

4950 3. Periodic distributions, as authorized by the state  
 4951 board.

4952 ~~(d) The distribution payment method selected by the member~~  
 4953 ~~or beneficiary, and the retirement of the member or beneficiary,~~  
 4954 ~~is final and irrevocable at the time a benefit distribution~~  
 4955 ~~payment is cashed, deposited, or transferred to another~~  
 4956 ~~financial institution. Any additional service that remains~~  
 4957 ~~unclaimed at retirement may not be claimed or purchased, and the~~  
 4958 ~~type of retirement may not be changed, except that if a member~~  
 4959 ~~recovers from a disability, the member may subsequently request~~  
 4960 ~~benefits under subsection (2).~~

4961 ~~(e) A member may not receive a distribution of employee~~  
 4962 ~~contributions if a pending qualified domestic relations order is~~  
 4963 ~~filed against the member's investment plan account.~~

4964 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided  
 4965 under this subsection are payable in lieu of the benefits which  
 4966 ~~that~~ would otherwise be payable under the provisions of

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4967 subsection (1). Such benefits shall ~~must~~ be funded entirely from  
 4968 employer contributions made under s. 121.571, transferred  
 4969 participant ~~employee contributions and~~ funds accumulated  
 4970 pursuant to paragraph (a), and interest and earnings thereon.  
 4971 Pursuant thereto:

4972 (a) *Transfer of funds.*—To qualify to receive monthly  
 4973 disability benefits under this subsection:

4974 1. All moneys accumulated in the participant's Public  
 4975 Employee Optional Retirement Program accounts ~~member's account~~,  
 4976 including vested and nonvested accumulations as described in s.  
 4977 121.4501(6), shall ~~must~~ be transferred from such individual  
 4978 accounts to the Division of Retirement for deposit in the  
 4979 disability account of the Florida Retirement System Trust Fund.  
 4980 Such moneys shall ~~must~~ be separately accounted for ~~separately~~.  
 4981 Earnings shall ~~must~~ be credited on an annual basis for amounts  
 4982 held in the disability accounts of the Florida Retirement System  
 4983 Trust Fund based on actual earnings of the Florida Retirement  
 4984 System trust fund.

4985 2. If the participant ~~member~~ has retained retirement  
 4986 credit he or she had earned under the defined benefit program of  
 4987 the Florida Retirement System ~~pension plan~~ as provided in s.  
 4988 121.4501(3) (b), a sum representing the actuarial present value  
 4989 of such credit within the Florida Retirement System Trust Fund  
 4990 shall be reassigned by the Division of Retirement from the  
 4991 defined benefit program ~~pension plan~~ to the disability program  
 4992 as implemented under this subsection and shall be deposited in  
 4993 the disability account of the Florida Retirement System trust  
 4994 fund. Such moneys shall ~~must~~ be separately accounted for

4995 ~~separately.~~  
 4996 (b) *Disability retirement; entitlement.*—  
 4997 1. A participant member of the Public Employee Optional  
 4998 Retirement Program investment plan who becomes totally and  
 4999 permanently disabled, as defined in s. 121.091(4)(b) paragraph  
 5000 ~~(d)~~, after completing 8 years of creditable service, or a  
 5001 participant member who becomes totally and permanently disabled  
 5002 in the line of duty regardless of his or her length of service,  
 5003 shall be is entitled to a monthly disability benefit as provided  
 5004 herein.  
 5005 2. In order for service to apply toward the 8 years of  
 5006 ~~creditable~~ service required to vest for regular disability  
 5007 benefits, or toward the creditable service used in calculating a  
 5008 service-based benefit as provided for under paragraph (g), the  
 5009 service must be creditable service as described below:  
 5010 a. The participant's member's period of service under the  
 5011 Public Employee Optional Retirement Program will investment plan  
 5012 ~~shall~~ be considered creditable service, except as provided in  
 5013 subparagraph d.  
 5014 b. If the participant member has elected to retain credit  
 5015 for his or her service under the defined benefit program of the  
 5016 Florida Retirement System pension plan as provided under s.  
 5017 121.4501(3) (b), all such service will shall be considered  
 5018 creditable service.  
 5019 c. If the participant has elected member elects to  
 5020 transfer to his or her participant member accounts a sum  
 5021 representing the present value of his or her retirement credit  
 5022 under the defined benefit program pension plan as provided under

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5023 s. 121.4501(3) (c), the period of service under the defined  
 5024 benefit program ~~pension plan~~ represented in the present value  
 5025 amounts transferred will ~~shall~~ be considered creditable service  
 5026 for purposes of vesting for disability benefits, except as  
 5027 provided in subparagraph d.

5028 d. Whenever a participant ~~If a member~~ has terminated  
 5029 employment and has taken distribution of his or her funds as  
 5030 provided in subsection (1), all creditable service represented  
 5031 by such distributed funds is forfeited for purposes of this  
 5032 subsection.

5033 (c) *Disability retirement effective date.*—The effective  
 5034 retirement date for a participant ~~member~~ who applies and is  
 5035 approved for disability retirement shall be established as  
 5036 provided under s. 121.091(4) (a)2. and 3.

5037 (d) *Total and permanent disability.*—A participant ~~member~~  
 5038 shall be considered totally and permanently disabled if, in the  
 5039 opinion of the division, he or she is prevented, by reason of a  
 5040 medically determinable physical or mental impairment, from  
 5041 rendering useful and efficient service as an officer or  
 5042 employee.

5043 (e) *Proof of disability.*—The division, before approving  
 5044 payment of any disability retirement benefit, ~~the division~~ shall  
 5045 require proof that the participant ~~member~~ is totally and  
 5046 permanently disabled in the same manner as provided for members  
 5047 of the defined benefit program of the Florida Retirement System  
 5048 under s. 121.091(4) (c).

5049 (f) *Disability retirement benefit.*—Upon the disability  
 5050 retirement of a participant ~~member~~ under this subsection, the

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5051 participant member shall receive a monthly benefit that shall  
5052 begin to accrue ~~begins accruing~~ on the first day of the month of  
5053 disability retirement, as approved by the division, and shall be  
5054 ~~is~~ payable on the last day of that month and each month  
5055 thereafter during his or her lifetime and continued disability.  
5056 All disability benefits payable to such member shall ~~must~~ be  
5057 paid out of the disability account of the Florida Retirement  
5058 System Trust Fund established under this subsection.

5059 (g) *Computation of disability retirement benefit.*—The  
5060 amount of each monthly payment shall ~~must~~ be calculated in the  
5061 same manner as provided for members of the defined benefit  
5062 program of the Florida Retirement System under s. 121.091(4)(f).  
5063 For such purpose, Creditable service under both the defined  
5064 benefit program ~~pension plan~~ and the Public Employee Optional  
5065 Retirement Program of the Florida Retirement System ~~investment~~  
5066 ~~plan~~ shall be applicable as provided under paragraph (b).

5067 (h) *Reapplication.*—A participant member whose initial  
5068 application for disability retirement has been ~~is~~ denied may  
5069 reapply for disability benefits in the same manner, and under  
5070 the same conditions, as provided for members of the defined  
5071 benefit program of the Florida Retirement System under ~~in~~ s.  
5072 121.091(4)(g).

5073 (i) *Membership.*—Upon approval of an ~~a member's~~ application  
5074 for disability benefits under this subsection, the applicant  
5075 ~~member~~ shall be transferred to the defined benefit program of  
5076 the Florida Retirement System ~~pension plan~~, effective upon his  
5077 or her disability retirement effective date.

5078 (j) *Option to cancel.*— Any participant ~~A member~~ whose

5079 application for disability benefits is approved may cancel ~~the~~  
 5080 his or her application for disability benefits, provided that if  
 5081 the cancellation request is received by the division before a  
 5082 disability retirement warrant has been deposited, cashed, or  
 5083 received by direct deposit. Upon such cancellation:

5084 1. The participant's ~~member's~~ transfer to the defined  
 5085 benefit program ~~pension plan~~ under paragraph (i) shall be  
 5086 nullified;

5087 2. The participant ~~member~~ shall be retroactively  
 5088 reinstated in the Public Employee Optional Retirement Program  
 5089 ~~investment plan~~ without hiatus;

5090 3. All funds transferred to the Florida Retirement System  
 5091 Trust Fund under paragraph (a) shall ~~must~~ be returned to the  
 5092 participant ~~member~~ accounts from which such ~~the~~ funds were  
 5093 drawn; and

5094 4. The participant ~~member~~ may elect to receive the benefit  
 5095 payable under the provisions of subsection (1) in lieu of  
 5096 disability benefits as provided under this subsection.

5097 (k) *Recovery from disability.*—

5098 1. The division may require periodic reexaminations at the  
 5099 expense of the disability program account of the Florida  
 5100 Retirement System Trust Fund. Except as otherwise provided in  
 5101 subparagraph 2., the requirements, procedures, and restrictions  
 5102 relating to the conduct and review of such reexaminations,  
 5103 discontinuation or termination of benefits, reentry into  
 5104 employment, disability retirement after reentry into covered  
 5105 employment, and all other matters relating to recovery from  
 5106 disability shall be the same as are set forth ~~provided~~ under s.

5107 | 121.091(4)(h).

5108 |         2. Upon recovery from disability, any ~~the~~ recipient of  
 5109 | disability retirement benefits under this subsection shall be a  
 5110 | compulsory member of the Public Employee Optional Retirement  
 5111 | Program of the Florida Retirement System ~~investment plan~~. The  
 5112 | net difference between the recipient's original account balance  
 5113 | transferred to the Florida Retirement System Trust Fund,  
 5114 | including earnings, under paragraph (a) and total disability  
 5115 | benefits paid to such recipient, if any, shall be determined as  
 5116 | provided in sub-subparagraph a.

5117 |         a. An amount equal to the total benefits paid shall be  
 5118 | subtracted from that portion of the transferred account balance  
 5119 | consisting of vested accumulations as described under s.  
 5120 | 121.4501(6), if any, and an amount equal to the remainder of  
 5121 | benefit amounts paid, if any, shall then be subtracted from any  
 5122 | remaining portion consisting of nonvested accumulations as  
 5123 | described under s. 121.4501(6).

5124 |         b. Amounts subtracted under sub-subparagraph a. shall ~~must~~  
 5125 | be retained within the disability account of the Florida  
 5126 | Retirement System Trust Fund. Any remaining account balance  
 5127 | shall be transferred to the third-party administrator for  
 5128 | disposition as provided under sub-subparagraph c. or sub-  
 5129 | subparagraph d., as appropriate.

5130 |         c. If the recipient returns to covered employment,  
 5131 | transferred amounts shall ~~must~~ be deposited in individual  
 5132 | accounts under the Public Employee Optional Retirement Program  
 5133 | ~~investment plan~~, as directed by the participant ~~member~~. Vested  
 5134 | and nonvested amounts shall be separately accounted for



5135 ~~separately~~ as provided in s. 121.4501(6).

5136 d. If the recipient fails to return to covered employment  
5137 upon recovery from disability:

5138 (I) Any remaining vested amount shall ~~must~~ be deposited in  
5139 individual accounts under the Public Employee Optional  
5140 Retirement Program investment plan, as directed by the  
5141 participant member, and shall be ~~is~~ payable as provided in  
5142 subsection (1).

5143 (II) Any remaining nonvested amount shall ~~must~~ be held in  
5144 a suspense account and shall be ~~is~~ forfeitable after 5 years as  
5145 provided in s. 121.4501(6).

5146 3. If present value was reassigned from the defined  
5147 benefit program pension plan to the disability program of the  
5148 Florida Retirement System as provided under subparagraph (a)2.,  
5149 the full present value amount shall ~~must~~ be returned to the  
5150 defined benefit account within the Florida Retirement System  
5151 Trust Fund and the affected individual's member's associated  
5152 retirement credit under the defined benefit program shall  
5153 ~~pension plan must~~ be reinstated in full. Any benefit based upon  
5154 such credit shall ~~must~~ be calculated as provided in s.  
5155 121.091(4)(h)1.

5156 (l) *Nonadmissible causes of disability.*—A participant  
5157 shall member is not be entitled to receive a disability  
5158 retirement benefit if the disability results from any injury or  
5159 disease sustained or inflicted as described in s. 121.091(4)(i).

5160 (m) *Disability retirement of justice or judge by order of*  
5161 *Supreme Court.*—

5162 1. If a participant member is a justice of the Supreme

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5163 Court, judge of a district court of appeal, circuit judge, or  
 5164 judge of a county court who has served for 6 years or more ~~the~~  
 5165 ~~years equal to, or greater than, the vesting requirement in s.~~  
 5166 ~~121.021(45)~~ as an elected constitutional judicial officer,  
 5167 including service as a judicial officer in any court abolished  
 5168 pursuant to Art. V of the State Constitution, and who is retired  
 5169 for disability by order of the Supreme Court upon recommendation  
 5170 of the Judicial Qualifications Commission pursuant to the  
 5171 provisions of s. 12, Art. V of the State Constitution, the  
 5172 participant's ~~member's~~ Option 1 monthly disability benefit  
 5173 amount as provided in s. 121.091(6)(a)1. shall be two-thirds of  
 5174 his or her monthly compensation as of the participant's ~~member's~~  
 5175 disability retirement date. Such a participant ~~The member~~ may  
 5176 alternatively elect to receive an actuarially adjusted  
 5177 disability retirement benefit under any other option as provided  
 5178 in s. 121.091(6)(a) or to receive the normal benefit payable  
 5179 under the Public Employee Optional Retirement Program as set  
 5180 forth in subsection (1).

5181 2. If any justice or judge who is a participant ~~member~~ of  
 5182 the Public Employee Optional Retirement Program of the Florida  
 5183 Retirement System ~~investment plan~~ is retired for disability by  
 5184 order of the Supreme Court upon recommendation of the Judicial  
 5185 Qualifications Commission pursuant to the provisions of s. 12,  
 5186 Art. V of the State Constitution and elects to receive a monthly  
 5187 disability benefit under the provisions of this paragraph:

5188 a. Any present value amount that was transferred to his or  
 5189 her program ~~investment plan~~ account and all employer ~~and~~  
 5190 ~~employee~~ contributions made to such account on his or her

5191 | behalf, plus interest and earnings thereon, shall ~~must~~ be  
 5192 | transferred to and deposited in the disability account of the  
 5193 | Florida Retirement System Trust Fund; and

5194 |       b. The monthly ~~disability~~ benefits payable under this  
 5195 | paragraph for any affected justice or judge retired from the  
 5196 | Florida Retirement System pursuant to Art. V of the State  
 5197 | Constitution shall be paid from the disability account of the  
 5198 | Florida Retirement System Trust Fund.

5199 |       (n) *Death of retiree or beneficiary.*—Upon the death of a  
 5200 | disabled retiree or beneficiary thereof ~~of the retiree~~ who is  
 5201 | receiving monthly ~~disability~~ benefits under this subsection, the  
 5202 | monthly benefits shall be paid through the last day of the month  
 5203 | of death and shall terminate, or be adjusted, if applicable, as  
 5204 | of that date in accordance with the optional form of benefit  
 5205 | selected at the time of retirement. The Department of Management  
 5206 | Services may adopt rules necessary to administer this paragraph.

5207 |       (3) DEATH BENEFITS.—Under the Public Employee Optional  
 5208 | Retirement Program ~~Florida Retirement System Investment Plan:~~

5209 |       (a) Survivor benefits shall be ~~are~~ payable in accordance  
 5210 | with the following terms and conditions:

5211 |       1. To the extent vested, benefits shall be ~~are~~ payable  
 5212 | only to a participant's ~~member's~~ beneficiary or beneficiaries as  
 5213 | designated by the participant ~~member~~ as provided in s.  
 5214 | 121.4501(20).

5215 |       2. Benefits shall be paid by the third-party administrator  
 5216 | or designated approved providers in accordance with the law, the  
 5217 | contracts, and any applicable ~~state~~ board rule or policy.

5218 |       3. To receive benefits under this subsection, the

5219 participant member must be deceased.

5220 (b) In the event of a participant's member's death, all  
 5221 vested accumulations as described in s. 121.4501(6), less  
 5222 withholding taxes remitted to the Internal Revenue Service,  
 5223 shall be distributed, as provided in paragraph (c) or as  
 5224 described in s. 121.4501(20), as if the participant member  
 5225 retired on the date of death. No other death benefits ~~are~~ shall  
 5226 be available for survivors of participants under the Public  
 5227 Employee Optional Retirement Program members, except for such  
 5228 benefits, or coverage for such benefits, as are otherwise  
 5229 provided by law or are separately afforded ~~provided~~ by the  
 5230 employer, at the employer's discretion.

5231 (c) Upon receipt by the third-party administrator of a  
 5232 properly executed application for distribution of benefits, the  
 5233 total accumulated benefit shall be ~~is~~ payable by the third-party  
 5234 administrator to the participant's member's surviving  
 5235 beneficiary or beneficiaries, as:

5236 1. A lump-sum distribution payable to the beneficiary or  
 5237 beneficiaries, or to the deceased participant's member's estate;

5238 2. An eligible rollover distribution, ~~if permitted,~~ on  
 5239 behalf of the surviving spouse of a deceased participant member,  
 5240 whereby all accrued benefits, plus interest and investment  
 5241 earnings, are paid from the deceased participant's member's  
 5242 account directly to the custodian of an eligible retirement  
 5243 plan, as described in s. 402(c)(8)(B) of the Internal Revenue  
 5244 Code, on behalf of the surviving spouse; or

5245 3. A partial lump-sum payment whereby a portion of the  
 5246 accrued benefit is paid to the deceased participant's member's

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5247 surviving spouse or other designated beneficiaries, less  
 5248 withholding taxes remitted to the Internal Revenue Service, and  
 5249 the remaining amount is transferred directly to the custodian of  
 5250 an eligible retirement plan, ~~if permitted,~~ as described in s.  
 5251 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
 5252 surviving spouse. The proportions must be specified by the  
 5253 participant ~~member~~ or the surviving beneficiary.

5254  
 5255 This paragraph does not abrogate other applicable provisions of  
 5256 state or federal law providing for payment of death benefits.

5257 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to  
 5258 any person under the Public Employee Optional Retirement Program  
 5259 ~~Florida Retirement System Investment Plan~~, and any contributions  
 5260 accumulated under such program ~~the plan~~, are not subject to  
 5261 assignment, execution, attachment, or any legal process, except  
 5262 for qualified domestic relations orders by a court of competent  
 5263 jurisdiction, income deduction orders as provided in s. 61.1301,  
 5264 and federal income tax levies.

5265 Section 31. Section 121.5911, Florida Statutes, is amended  
 5266 to read:

5267 121.5911 Disability retirement program; qualified status;  
 5268 rulemaking authority.—It is the intent of the Legislature that  
 5269 the disability retirement program for participants ~~members~~  
 5270 Public Employee Optional Retirement Program as created in this  
 5271 act must of the ~~Florida Retirement System Investment Plan~~ meet  
 5272 all applicable requirements of federal law for a qualified plan.  
 5273 The Department of Management Services shall seek a private  
 5274 letter ruling from the Internal Revenue Service on the

5275 disability retirement program for participants of the Public  
 5276 Employee Optional Retirement Program. Consistent with the  
 5277 private letter ruling, the Department of Management Services  
 5278 shall adopt any necessary rules required ~~necessary~~ to maintain  
 5279 the qualified status of the disability retirement program and  
 5280 the Florida Retirement System Defined Benefit Pension Plan.

5281 Section 32. Section 121.70, Florida Statutes, is amended  
 5282 to read:

5283 121.70 Legislative purpose and intent.—

5284 (1) This part provides for a uniform system for funding  
 5285 benefits provided under the Florida Retirement System Defined  
 5286 Benefit Program Pension Plan established under part I of this  
 5287 chapter (referred to in this part as the defined benefit program  
 5288 ~~pension plan~~) and under the Public Employee Optional Retirement  
 5289 Program Florida Retirement System Investment Plan established  
 5290 under part II of this chapter (referred to in this part as the  
 5291 optional retirement program investment plan). The Legislature  
 5292 recognizes and declares that the Florida Retirement System is a  
 5293 single retirement system, consisting of two retirement plans and  
 5294 other nonintegrated programs. ~~Employees and~~ Employers  
 5295 participating in the Florida Retirement System collectively  
 5296 shall be responsible for making contributions to support the  
 5297 benefits afforded ~~provided~~ under both plans. As provided in this  
 5298 part, The employees and employers participating in the Florida  
 5299 Retirement System shall make contributions based upon uniform  
 5300 contribution rates determined as a percentage of the total  
 5301 payroll ~~employee's gross monthly compensation~~ for each the  
 5302 ~~employee's~~ class or subclass of Florida Retirement System

5303 membership, irrespective of which ~~the~~ retirement plan ~~in which~~  
 5304 ~~the individual~~ employees may elect ~~employee is enrolled~~. This  
 5305 shall be known as a uniform or blended contribution rate system.

5306 (2) In establishing a uniform contribution rate system, it  
 5307 is the intent of the Legislature to:

5308 (a) Provide greater stability and certainty in financial  
 5309 planning and budgeting for Florida Retirement System employers  
 5310 by eliminating the fiscal instability that would be caused by  
 5311 dual rates coupled with employee-selected plan participation;

5312 (b) Provide greater fiscal equity and uniformity for  
 5313 system employers by effectively distributing the financial  
 5314 burden and benefit of short-term system deficits and surpluses,  
 5315 respectively, in proportion to total system payroll; and

5316 (c) Allow employees to make their retirement plan  
 5317 selection decisions free of circumstances that may cause  
 5318 employers to favor one plan choice over another.

5319 Section 33. Section 121.71, Florida Statutes, is amended  
 5320 to read:

5321 121.71 Uniform rates; process; calculations; levy.—

5322 (1) In conducting the system actuarial study required  
 5323 under s. 121.031, the actuary shall follow all requirements  
 5324 specified thereunder to determine, by Florida Retirement System  
 5325 employee membership class, the dollar contribution amounts  
 5326 necessary for the forthcoming ~~next~~ fiscal year for the defined  
 5327 benefit program ~~pension plan~~. In addition, the actuary shall  
 5328 determine, by Florida Retirement System membership class, based  
 5329 on an estimate for the forthcoming ~~next~~ fiscal year of the gross  
 5330 compensation of employees participating in the optional

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5331 retirement program investment plan, the dollar contribution  
5332 amounts necessary to make the allocations required under ss.  
5333 121.72 and 121.73. For each employee membership class and  
5334 subclass, the actuarial study shall ~~must~~ establish a uniform  
5335 rate necessary to fund the benefit obligations under both  
5336 Florida Retirement System retirement plans by dividing the sum  
5337 of total dollars required by the estimated gross compensation of  
5338 members in both plans.

5339 (2) Based on the uniform rates set forth in subsection  
5340 ~~subsections (3), (4), and (5)~~, employees and employers shall  
5341 make monthly contributions to the Division of Retirement ~~as~~  
5342 ~~required in s. 121.061(1)~~, which shall initially deposit the  
5343 funds into the Florida Retirement System Contributions Clearing  
5344 Trust Fund. A change in a contribution rate is effective the  
5345 first day of the month for which a full month's employer ~~and~~  
5346 ~~employee~~ contribution may be made on or after the beginning date  
5347 of the change. ~~Beginning July 1, 2011, each employee shall~~  
5348 ~~contribute the contributions required in subsection (3). The~~  
5349 ~~employer shall deduct the contribution from the employee's~~  
5350 ~~monthly salary, and the contribution shall be submitted to the~~  
5351 ~~division. These contributions shall be reported as employer-paid~~  
5352 ~~employee contributions, and credited to the account of the~~  
5353 ~~employee. The contributions shall be deducted from the~~  
5354 ~~employee's salary before the computation of applicable federal~~  
5355 ~~taxes and treated as employer contributions under 26 U.S.C. s.~~  
5356 ~~414(h) (2). The employer specifies that the contributions,~~  
5357 ~~although designated as employee contributions, are being paid by~~  
5358 ~~the employer in lieu of contributions by the employee. The~~



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5359 ~~employee does not have the option of choosing to receive the~~  
 5360 ~~contributed amounts directly instead of having them paid by the~~  
 5361 ~~employer to the plan. Such contributions are mandatory, and each~~  
 5362 ~~employee is considered to have consented to payroll deductions.~~  
 5363 ~~Payment of an employee's salary or wages, less the contribution,~~  
 5364 ~~is a full and complete discharge and satisfaction of all claims~~  
 5365 ~~and demands for the service rendered by employees during the~~  
 5366 ~~period covered by the payment, except their claims to the~~  
 5367 ~~benefits to which they may be entitled under this chapter.~~

5368 ~~(3) Required employee retirement contribution rates for~~  
 5369 ~~each membership class and subclass of the Florida Retirement~~  
 5370 ~~System for both retirement plans are as follows:~~

5371

<del>Membership Class</del>	<del>Percentage of Gross Compensation, Effective July 1, 2011</del>
5372	
5373 <del>Regular Class</del>	<del>3.00%</del>
5374 <del>Special Risk Class</del>	<del>3.00%</del>
5375 <del>Special Risk Administrative</del>	<del>3.00%</del>

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5376	<del>Support Class</del>		
	<del>Elected Officers' Class</del>		
	<del>Legislators, Governor,</del>		
	<del>Lt. Governor,</del>		
	<del>Cabinet Officers,</del>		
	<del>State Attorneys,</del>		
	<del>Public Defenders</del>		<del>3.00%</del>
5377	<del>Elected Officers' Class</del>		
	<del>Justices, Judges</del>		<del>3.00%</del>
5378	<del>Elected Officers' Class</del>		
	<del>County Elected Officers</del>		<del>3.00%</del>
5379	<del>Senior Management Service Class</del>		<del>3.00%</del>
5380	<del>DROP</del>		<del>0.00%</del>

5381

5382        (3)~~(4)~~ Required employer retirement contribution rates for

5383 each membership class and subclass of the Florida Retirement

5384 System for both retirement plans are as follows:

5385

Membership Class	Percentage of Gross Compensation, Effective	Percentage of Gross Compensation, Effective
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	July 1, <u>2012</u>	July 1, <u>2013</u>
	<del>2011</del>	<del>2012</del>
5386		
5387		
5388	Regular Class	<u>8.69%</u> <del>3.28%</del> <u>9.63%</u> <del>3.28%</del>
5389	Special Risk Class	<u>19.76%</u> <del>10.21%</del> <u>22.11%</u> <del>10.21%</del>
5390	Special Risk Administrative Support Class	<u>11.39%</u> <del>4.07%</del> <u>12.10%</u> <del>4.07%</del>
5391	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>13.32%</u> <del>7.02%</del> <u>15.20%</u> <del>7.02%</del>
5392	Elected Officers' Class— Justices, Judges	<u>18.40%</u> <del>9.78%</del> <u>20.65%</u> <del>9.78%</del>
5393	Elected Officers' Class— County Elected Officers	<u>15.37%</u> <del>9.27%</del> <u>17.50%</u> <del>9.27%</del>
5394	Senior Management Class	<u>11.96%</u> <del>4.81%</del> <u>13.43%</u> <del>4.81%</del>

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DROP 9.80% ~~3.31%~~ 11.14% ~~3.31%~~

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~~(5) In order to address unfunded actuarial liabilities of the system, the required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows:~~

<del>Membership Class</del>	<del>Percentage of Gross Compensation, Effective July 1, 2011</del>	<del>Percentage of Gross Compensation, Effective July 1, 2012</del>
-----------------------------	---	---

5401

5402

<del>Regular Class</del>	<del>0.49%</del>	<del>2.16%</del>
--------------------------	------------------	------------------

5403

<del>Special Risk Class</del>	<del>2.75%</del>	<del>8.21%</del>
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5404

<del>Special Risk Administrative Support Class</del>	<del>0.83%</del>	<del>21.40%</del>
--	------------------	-------------------

5405

<del>Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers,</del>	<del>0.88%</del>	<del>21.76%</del>
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5406	<del>State Attorneys, Public Defenders</del>		
5407	<del>Elected Officers' Class Justices, Judges</del>	<del>0.77%</del>	<del>12.86%</del>
5408	<del>Elected Officers' Class County Elected Officers</del>	<del>0.73%</del>	<del>22.05%</del>
5409	<del>Senior Management Service Class</del>	<del>0.32%</del>	<del>10.51%</del>
5410	<del>DROP</del>	<del>0.00%</del>	<del>6.36%</del>

5411 ~~(6) If a member is reported under an incorrect membership~~  
 5412 ~~class and the amount of contributions reported and remitted is~~  
 5413 ~~less than the amount required, the employer shall owe the~~  
 5414 ~~difference, plus the delinquent fee, of 1 percent for each~~  
 5415 ~~calendar month or part thereof that the contributions should~~  
 5416 ~~have been paid. The delinquent assessment may not be waived. If~~  
 5417 ~~the contributions reported and remitted are more than the amount~~  
 5418 ~~required, the employer shall receive a credit to be applied~~  
 5419 ~~against future contributions owed.~~

5420 (4) ~~(7)~~ The state actuary shall recognize and use an  
 5421 appropriate level of available excess assets of the Florida  
 5422 Retirement System Trust Fund to offset the difference between  
 5423 the normal costs of the Florida Retirement System and the  
 5424 statutorily prescribed contribution rates.

5425 Section 34. Section 121.72, Florida Statutes, is amended  
 5426 to read:

5427 121.72 Allocations to optional retirement program  
 5428 participant investment plan member accounts; percentage  
 5429 amounts.—

5430 (1) The allocations established in subsection (4) shall  
 5431 fund retirement benefits under the optional retirement program  
 5432 ~~investment plan~~ and shall be transferred monthly by the Division  
 5433 of Retirement from the Florida Retirement System Contributions  
 5434 Clearing Trust Fund to the third-party administrator for deposit  
 5435 in each participating employee's individual account based on the  
 5436 membership class of the participant.

5437 (2) The allocations are stated as a percentage of each  
 5438 optional retirement program participant's investment plan  
 5439 ~~member's~~ gross compensation for the calendar month. A change in  
 5440 a contribution percentage is effective the first day of the  
 5441 month for which a full month's employer contribution retirement  
 5442 ~~contributions~~ may be made on or after the beginning date of the  
 5443 change. Contribution percentages may be modified by general law.

5444 (3) Employer and participant employee contributions to  
 5445 participant member accounts shall be accounted for separately.  
 5446 Participant contributions may be made only if expressly  
 5447 authorized by law. Interest and investment earnings on  
 5448 contributions shall accrue on a tax-deferred basis until  
 5449 proceeds are distributed.

5450 (4) Effective July 1, 2002, allocations from the Florida  
 5451 Retirement System Contributions Clearing Trust Fund to optional  
 5452 retirement program participant investment plan member accounts

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5453	<u>shall be</u> <del>are</del> as follows:	
	Membership Class	Percentage of Gross Compensation
5454	Regular Class	9.00%
5455	Special Risk Class	20.00%
5456	Special Risk Administrative Support Class	11.35%
5457	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.40%
5458	Elected Officers' Class— Justices, Judges	18.90%
5459	Elected Officers' Class— County Elected Officers	16.20%
5460	Senior Management Service Class	10.95%
5461		
5462	Section 35. Section 121.73, Florida Statutes, is amended	
5463	to read:	
5464	121.73 Allocations for <u>optional retirement program</u>	

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5465 participant ~~member~~ disability coverage; percentage amounts.—

5466 (1) The allocations established in subsection (3) shall be  
 5467 used to provide disability coverage for participants ~~members~~ in  
 5468 the optional retirement program ~~investment plan~~ and shall be  
 5469 transferred monthly by the Division of Retirement from the  
 5470 Florida Retirement System Contributions Clearing Trust Fund to  
 5471 the disability account of the Florida Retirement System Trust  
 5472 Fund.

5473 (2) The allocations are stated as a percentage of each  
 5474 optional retirement program participant's ~~investment plan~~  
 5475 ~~member's~~ gross compensation for the calendar month. A change in  
 5476 a contribution percentage is effective the first day of the  
 5477 month for which a full month's employer contribution ~~retirement~~  
 5478 ~~contributions~~ may be made on or after the beginning date of the  
 5479 change. Contribution percentages may be modified by general law.

5480 (3) Effective July 1, 2002, allocations from the FRS  
 5481 Contribution ~~Florida Retirement System Contributions~~ Clearing  
 5482 ~~Trust~~ Fund to provide disability coverage for participants  
 5483 ~~members~~ in the optional retirement program ~~investment plan~~, and  
 5484 to offset the costs of administering said coverage, shall be ~~are~~  
 5485 as follows:

5486

Membership Class	Percentage of Gross Compensation
Regular Class	0.25%

5487

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5489	Special Risk Class	1.33%
5490	Special Risk Administrative Support Class	0.45%
5491	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.41%
5492	Elected Officers' Class— Justices, Judges	0.73%
5493	Elected Officers' Class— County Elected Officers	0.41%
5494	Senior Management Service Class	0.26%

5495 Section 36. Section 121.74, Florida Statutes, is amended  
5496 to read:

5497 121.74 Administrative and educational expenses.—In  
5498 addition to contributions required under s. 121.71 ~~and~~  
5499 ~~121.73~~, effective July 1, 2010, through June 30, 2014, employers  
5500 participating in the Florida Retirement System shall contribute  
5501 an amount equal to 0.03 percent of the payroll reported for each  
5502 class or subclass of Florida Retirement System membership;  
5503 Effective July 1, 2014, the contribution rate shall be 0.04  
5504 percent of the payroll reported for each class or subclass of

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5505 membership. The amount contributed shall be transferred by the  
 5506 Division of Retirement from the Florida Retirement System  
 5507 Contributions Clearing Trust Fund to the State Board of  
 5508 Administration's Administrative Trust Fund to offset the costs  
 5509 of administering the optional retirement program investment plan  
 5510 and the costs of providing educational services to participants  
 5511 in the defined benefit program and the optional retirement  
 5512 program ~~members of the Florida Retirement System~~. Approval of  
 5513 the trustees is required before the expenditure of these funds.  
 5514 Payments for third-party administrative or educational expenses  
 5515 shall be made only pursuant to the terms of the approved  
 5516 contracts for such services.

5517 Section 37. Section 121.75, Florida Statutes, is amended  
 5518 to read:

5519 121.75 Allocation for defined benefit program ~~pension~~  
 5520 ~~plan~~.—After making the transfers required pursuant to ss.  
 5521 121.71, 121.72, 121.73, and 121.74, the monthly balance of funds  
 5522 in the Florida Retirement System Contributions Clearing Trust  
 5523 Fund shall be transferred to the Florida Retirement System Trust  
 5524 Fund to pay the costs of providing defined benefit program  
 5525 ~~pension plan~~ benefits and plan administrative costs under the  
 5526 defined benefit program ~~pension plan~~.

5527 Section 38. Section 121.77, Florida Statutes, is amended  
 5528 to read:

5529 121.77 Deductions from participant ~~member~~ accounts.—The  
 5530 State Board of Administration may authorize the third-party  
 5531 administrator to deduct reasonable fees and apply appropriate  
 5532 charges to optional retirement program participant ~~investment~~

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5533 ~~plan member~~ accounts. In no event shall ~~may~~ administrative and  
5534 educational expenses exceed the portion of employer  
5535 contributions earmarked for such expenses under this part,  
5536 except for reasonable administrative charges assessed against  
5537 participant member accounts of persons for whom no employer  
5538 contributions are made during the calendar quarter. Investment  
5539 management fees shall be deducted from participant member  
5540 accounts, pursuant to the terms of the contract between the  
5541 provider and the board.

5542 Section 39. Section 121.78, Florida Statutes, is amended  
5543 to read:

5544 121.78 Payment and distribution of contributions.—

5545 (1) Contributions made pursuant to this part shall be paid  
5546 by the employer, ~~including the employee contribution,~~ to the  
5547 Division of Retirement by electronic funds transfer no later  
5548 than the 5th working day of the month immediately after  
5549 ~~following~~ the month during which the payroll period ended.  
5550 Accompanying payroll data must be transmitted to the division  
5551 concurrent with the contributions.

5552 (2) The division, the State Board of Administration, and  
5553 the third-party administrator, as applicable, shall ensure that  
5554 the contributions are distributed to the appropriate trust funds  
5555 or participant accounts in a timely manner.

5556 (3) (a) ~~Employee and~~ employer contributions and  
5557 accompanying payroll data received after the 5th working day of  
5558 the month are considered late. The employer shall be assessed by  
5559 the Division of Retirement a penalty of 1 percent of the  
5560 contributions due for each calendar month or part thereof that

5561 the contributions or accompanying payroll data are late.  
 5562 Proceeds from the 1-percent ~~1 percent~~ assessment against  
 5563 contributions made on behalf of participants ~~members~~ of the  
 5564 defined benefit program shall ~~pension plan must~~ be deposited in  
 5565 the Florida Retirement System Trust Fund, and proceeds from the  
 5566 1-percent ~~1 percent~~ assessment against contributions made on  
 5567 behalf of participants ~~members~~ of the optional retirement  
 5568 program ~~investment plan~~ shall be transferred to the third-party  
 5569 administrator for deposit into participant ~~member~~ accounts, as  
 5570 provided in paragraph (b) ~~(e)~~.

5571 ~~(b) Retirement contributions paid for a prior period shall~~  
 5572 ~~be charged a delinquent fee of 1 percent for each calendar month~~  
 5573 ~~or part thereof that the contributions should have been paid.~~  
 5574 ~~This includes prior period contributions due to incorrect wages~~  
 5575 ~~and contributions from an earlier report or wages and~~  
 5576 ~~contributions that should have been reported but were not. The~~  
 5577 ~~delinquent assessments may not be waived.~~

5578 (b)(e) ~~If employee contributions or~~ contributions made by  
 5579 an employer on behalf of participants ~~members~~ of the optional  
 5580 retirement program ~~investment plan~~ or accompanying payroll data  
 5581 are not received within the calendar month they are due,  
 5582 including, but not limited to, contribution adjustments as a  
 5583 result of employer errors or corrections, and if that  
 5584 delinquency results in market losses to participants ~~members~~,  
 5585 the employer shall reimburse each participant's ~~member's~~ account  
 5586 for market losses resulting from the late contributions. If a  
 5587 participant ~~member~~ has terminated employment and taken a  
 5588 distribution, the participant ~~member~~ is responsible for

5589 | returning any excess contributions erroneously provided by  
 5590 | employers, adjusted for any investment gain or loss incurred  
 5591 | during the period such excess contributions were in the  
 5592 | participant's ~~member's~~ account. The state board or its  
 5593 | designated agent shall communicate to terminated participants  
 5594 | ~~members~~ any obligation to repay such excess contribution  
 5595 | amounts. However, the state board, its designated agents, the  
 5596 | Public Employee Optional Retirement Program ~~Florida Retirement~~  
 5597 | ~~System Investment Plan~~ Trust Fund, the department, or the  
 5598 | Florida Retirement System Trust Fund may not incur any loss or  
 5599 | gain as a result of an employer's correction of such excess  
 5600 | contributions. The third-party administrator, hired by the state  
 5601 | board pursuant to s. 121.4501(8), shall calculate the market  
 5602 | losses for each affected participant ~~member~~. If contributions  
 5603 | made on behalf of participants ~~members~~ of the optional  
 5604 | retirement program ~~investment plan~~ or accompanying payroll data  
 5605 | are not received within the calendar month due, the employer  
 5606 | shall also pay the cost of the third-party administrator's  
 5607 | calculation and reconciliation adjustments resulting from the  
 5608 | late contributions. The third-party administrator shall notify  
 5609 | the employer of the results of the calculations and the total  
 5610 | amount due from the employer for such losses and the costs of  
 5611 | calculation and reconciliation. The employer shall remit to the  
 5612 | Division of Retirement the amount due within 30 working days  
 5613 | after the date of the penalty notice sent by the division. The  
 5614 | division shall transfer that amount to the third-party  
 5615 | administrator, which shall deposit proceeds from the 1 percent  
 5616 | assessment and from individual market losses into participant

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5617 ~~member~~ accounts, as appropriate. The state board may adopt rules  
5618 to administer the provisions regarding late contributions, late  
5619 submission of payroll data, the process for reimbursing  
5620 participant ~~member~~ accounts for resultant market losses, and the  
5621 penalties charged to the employers.

5622 ~~(d) If employee contributions reported by an employer on~~  
5623 ~~behalf of members are reduced as a result of employer errors or~~  
5624 ~~corrections, and the member has terminated employment and taken~~  
5625 ~~a refund or distribution, the employer shall be billed and is~~  
5626 ~~responsible for recovering from the member any excess~~  
5627 ~~contributions erroneously provided by the employer.~~

5628 ~~(c)(e)~~ Delinquency fees ~~specified in paragraph (a)~~ may be  
5629 waived by the Division of Retirement, with regard to ~~pension~~  
5630 ~~plan~~ defined benefit program contributions, and by the state  
5631 board, with regard to optional retirement program investment  
5632 ~~plan~~ contributions, only if, in the opinion of the division or  
5633 the board, as appropriate, exceptional circumstances beyond the  
5634 employer's control prevented remittance by the prescribed due  
5635 date notwithstanding the employer's good faith efforts to effect  
5636 delivery. Such a waiver of delinquency may be granted an  
5637 employer only once each state fiscal ~~plan~~ year.

5638 ~~(f) If the employer submits excess employer or employee~~  
5639 ~~contributions, the employer shall receive a credit to be applied~~  
5640 ~~against future contributions owed. The employer is responsible~~  
5641 ~~for reimbursing the member for any excess contributions~~  
5642 ~~submitted if any return of such an erroneous excess pretax~~  
5643 ~~contribution by the program is made within 1 year after making~~  
5644 ~~erroneous contributions or such other period allowed under~~

5645 ~~applicable Internal Revenue guidance.~~

5646 (d) ~~(g)~~ If contributions made by an employer on behalf of  
 5647 participants members in the optional retirement program  
 5648 ~~investment plan~~ are delayed in posting to participant member  
 5649 accounts due to acts of God beyond the control of the Division  
 5650 of Retirement, the state board, or the third-party  
 5651 administrator, as applicable, market losses resulting from the  
 5652 late contributions are not payable to the participants members.

5653 Section 40. Paragraph (a) of subsection (4), paragraph (b)  
 5654 of subsection (5), and subsection (7) of section 1012.875,  
 5655 Florida Statutes, are amended to read:

5656 1012.875 State Community College System Optional  
 5657 Retirement Program.—Each Florida College System institution may  
 5658 implement an optional retirement program, if such program is  
 5659 established therefor pursuant to s. 1001.64(20), under which  
 5660 annuity or other contracts providing retirement and death  
 5661 benefits may be purchased by, and on behalf of, eligible  
 5662 employees who participate in the program, in accordance with s.  
 5663 403(b) of the Internal Revenue Code. Except as otherwise  
 5664 provided herein, this retirement program, which shall be known  
 5665 as the State Community College System Optional Retirement  
 5666 Program, may be implemented and administered only by an  
 5667 individual Florida College System institution or by a consortium  
 5668 of Florida College System institutions.

5669 ~~(4) (a) 1. Through June 30, 2011,~~ Each college must  
 5670 contribute on behalf of each program participant member an  
 5671 amount equal to 10.43 percent of the participant's ~~employee's~~  
 5672 gross monthly compensation.

5673           ~~2. Effective July 1, 2011, each member shall contribute an~~  
 5674 ~~amount equal to the employee contribution required under s.~~  
 5675 ~~121.71(3). The employer shall contribute on behalf of each~~  
 5676 ~~program member an amount equal to the difference between 10.43~~  
 5677 ~~percent of the employee's gross monthly compensation and the~~  
 5678 ~~employee's required contribution based on the employee's gross~~  
 5679 ~~monthly compensation.~~

5680           ~~3.~~ The college shall deduct an amount approved by the  
 5681 district board of trustees of the college to provide for the  
 5682 administration of the optional retirement program. Payment of  
 5683 this contribution must be made either directly by the college or  
 5684 through the program administrator to the designated company  
 5685 contracting for payment of benefits to the program participant  
 5686 ~~member.~~

5687           (5)

5688           (b) Benefits are payable under the optional retirement  
 5689 program to program participants or their beneficiaries and the  
 5690 benefits must be paid only by the designated company in  
 5691 accordance with the terms of the contracts applicable to the  
 5692 program participant. Benefits shall accrue in individual  
 5693 accounts that are participant-directed, portable, and funded by  
 5694 employer ~~and employee~~ contributions and the earnings thereon.  
 5695 Benefits funded by employer ~~and employee~~ contributions are  
 5696 payable in accordance with the following terms and conditions:

5697           1. Benefits shall be payable only to a participant, to his  
 5698 or her beneficiaries, or to his or her estate, as designated by  
 5699 the participant.

5700           2. Benefits shall be paid by the provider company or



5701 companies in accordance with the law, the provisions of the  
 5702 contract, and any applicable employer rule or policy.

5703 3. In the event of a participant's death, moneys  
 5704 accumulated by, or on behalf of, the participant, less  
 5705 withholding taxes remitted to the Internal Revenue Service, if  
 5706 any, shall be distributed to the participant's designated  
 5707 beneficiary or beneficiaries, or to the participant's estate, as  
 5708 if the participant retired on the date of death as provided in  
 5709 paragraph (d). No other death benefits shall be ~~are~~ available  
 5710 for survivors of participants under the optional retirement  
 5711 program except for such benefits, or coverage for such benefits,  
 5712 as are separately afforded by the employer at the employer's  
 5713 discretion.

5714 ~~(7) Benefits, including employee contributions, are not~~  
 5715 ~~payable for employee hardships, unforeseeable emergencies,~~  
 5716 ~~loans, medical expenses, educational expenses, purchase of a~~  
 5717 ~~principal residence, payments necessary to prevent eviction or~~  
 5718 ~~foreclosure on an employee's principal residence, or any other~~  
 5719 ~~reason before termination from all employment relationships with~~  
 5720 ~~participating employers for 3 calendar months.~~

5721 Section 41. Employee contributions plus interest made by  
 5722 participants between July 1, 2011, and June 30, 2012, shall be  
 5723 reimbursed to the participants at the actuarial assumption rate  
 5724 as determined by the Division of Retirement.

5725 Section 42. The Legislature finds that a proper and  
 5726 legitimate state purpose is served when employees and retirees  
 5727 of the state and its political subdivisions, and the dependents,  
 5728 survivors, and beneficiaries of such employees and retirees, are

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5729 extended the basic protections afforded by governmental  
5730 retirement systems. These persons must be provided benefits that  
5731 are fair and adequate and that are managed, administered, and  
5732 funded in an actuarially sound manner, as required by s. 14,  
5733 Article X of the State Constitution and part VII of chapter 112,  
5734 Florida Statutes. Therefore, the Legislature determines and  
5735 declares that this act fulfills an important state interest.

5736 Section 43. This act shall take effect July 1, 2012.