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 HB 5005, Engrossed 1

2012 Legislature

1
 2 An act relating to retirement; amending s. 121.051,
 3 F.S.; revising employer contributions for members of
 4 the Florida Retirement System who are employees of
 5 public community colleges or charter technical career
 6 centers sponsored by public community colleges on a
 7 certain date; amending s. 121.055, F.S.; revising
 8 employer contributions for members of the Senior
 9 Management Service Class of the Florida Retirement
 10 System on a certain date; amending s. 121.35, F.S.;
 11 revising employer contributions for members of the
 12 optional retirement program for the State University
 13 System on a certain date; amending s. 121.71, F.S.;
 14 revising the required employer retirement contribution
 15 rates for members of each membership class and
 16 subclass of the Florida Retirement System; amending s.
 17 121.72, F.S.; revising allocations from the Florida
 18 Retirement System Contributions Clearing Trust Fund to
 19 investment plan member accounts on a certain date;
 20 amending s. 1012.875, F.S.; revising employer
 21 contributions for members of the State Community
 22 College System Optional Retirement Program on a
 23 certain date; providing that the act fulfills an
 24 important state interest; providing an effective date.

25
 26 Be It Enacted by the Legislature of the State of Florida:

27
 28 Section 1. Paragraph (c) of subsection (2) of section

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29 | 121.051, Florida Statutes, is amended to read:

30 | 121.051 Participation in the system.—

31 | (2) OPTIONAL PARTICIPATION.—

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

41 | 1.a. Through June 30, 2001, the cost to the employer for
 42 | benefits under the optional retirement program equals the normal
 43 | cost portion of the employer retirement contribution which would
 44 | be required if the employee were a member of the pension plan's
 45 | Regular Class, plus the portion of the contribution rate
 46 | required by s. 112.363(8) which would otherwise be assigned to
 47 | the Retiree Health Insurance Subsidy Trust Fund.

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

53 | c. Effective July 1, 2011, through June 30, 2012, each
 54 | member shall contribute an amount equal to the employee
 55 | contribution required under s. 121.71(3). The employer shall
 56 | contribute on behalf of each program member an amount equal to

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57 | the difference between 10.43 percent of the employee's gross
 58 | monthly compensation and the employee's required contribution
 59 | based on the employee's gross monthly compensation.

60 | d. Effective July 1, 2012, each member shall contribute an
 61 | amount equal to the employee contribution required under s.
 62 | 121.71(3). The employer shall contribute on behalf of each
 63 | program member an amount equal to the difference between 8.15
 64 | percent of the employee's gross monthly compensation and the
 65 | employee's required contribution based on the employee's gross
 66 | monthly compensation.

67 | ~~e.d.~~ The employer shall contribute an additional amount to
 68 | the Florida Retirement System Trust Fund equal to the unfunded
 69 | actuarial accrued liability portion of the Regular Class
 70 | contribution rate.

71 | 2. The decision to participate in the optional retirement
 72 | program is irrevocable as long as the employee holds a position
 73 | eligible for participation, except as provided in subparagraph
 74 | 3. Any service creditable under the Florida Retirement System is
 75 | retained after the member withdraws from the system; however,
 76 | additional service credit in the system may not be earned while
 77 | a member of the optional retirement program.

78 | 3. An employee who has elected to participate in the
 79 | optional retirement program shall have one opportunity, at the
 80 | employee's discretion, to transfer from the optional retirement
 81 | program to the pension plan of the Florida Retirement System or
 82 | to the investment plan established under part II of this
 83 | chapter, subject to the terms of the applicable optional
 84 | retirement program contracts.

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

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

94 (I) The cost for such credit is the amount representing
95 the present value of the employee's accumulated benefit
96 obligation for the affected period of service. The cost shall be
97 calculated as if the benefit commencement occurs on the first
98 date the employee becomes eligible for unreduced benefits, using
99 the discount rate and other relevant actuarial assumptions that
100 were used to value the Florida Retirement System Pension Plan
101 liabilities in the most recent actuarial valuation. The
102 calculation must include any service already maintained under
103 the pension plan in addition to the years under the optional
104 retirement program. The present value of any service already
105 maintained must be applied as a credit to total cost resulting
106 from the calculation. The division must ~~shall~~ ensure that the
107 transfer sum is prepared using a formula and methodology
108 certified by an enrolled actuary.

109 (II) The employee must transfer from his or her optional
110 retirement program account and from other employee moneys as
111 necessary, a sum representing the present value of the
112 employee's accumulated benefit obligation immediately following

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113 the time of such movement, determined assuming that attained
 114 service equals the sum of service in the pension plan and
 115 service in the optional retirement program.

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

119 a. The employee is otherwise eligible for membership or
 120 renewed membership in the Regular Class of the Florida
 121 Retirement System, as provided in s. 121.021(11) and (12) or s.
 122 121.122.

123 b. The employee is employed in a full-time position
 124 classified in the Accounting Manual for Florida's Public
 125 Community Colleges as:

126 (I) Instructional; or

127 (II) Executive Management, Instructional Management, or
 128 Institutional Management and the community college determines
 129 that recruiting to fill a vacancy in the position is to be
 130 conducted in the national or regional market, and the duties and
 131 responsibilities of the position include the formulation,
 132 interpretation, or implementation of policies, or the
 133 performance of functions that are unique or specialized within
 134 higher education and that frequently support the mission of the
 135 community college.

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

139 5. Members of the program are subject to the same
 140 reemployment limitations, renewed membership provisions, and

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141 forfeiture provisions applicable to regular members of the
142 Florida Retirement System under ss. 121.091(9), 121.122, and
143 121.091(5), respectively. A member who receives a program
144 distribution funded by employer and required employee
145 contributions is deemed to be retired from a state-administered
146 retirement system if the member is subsequently employed with an
147 employer that participates in the Florida Retirement System.

148 6. Eligible community college employees are compulsory
149 members of the Florida Retirement System until, pursuant to s.
150 1012.875, a written election to withdraw from the system and
151 participate in the optional retirement program is filed with the
152 program administrator and received by the division.

153 a. A community college employee whose program eligibility
154 results from initial employment shall be enrolled in the
155 optional retirement program retroactive to the first day of
156 eligible employment. The employer and employee retirement
157 contributions paid through the month of the employee plan change
158 shall be transferred to the community college to the employee's
159 optional program account, and, effective the first day of the
160 next month, the employer shall pay the applicable contributions
161 based upon subparagraph 1.

162 b. A community college employee whose program eligibility
163 is due to the subsequent designation of the employee's position
164 as one of those specified in subparagraph 4., or due to the
165 employee's appointment, promotion, transfer, or reclassification
166 to a position specified in subparagraph 4., must be enrolled in
167 the program on the first day of the first full calendar month
168 that such change in status becomes effective. The employer and

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169 employee retirement contributions paid from the effective date
 170 through the month of the employee plan change must be
 171 transferred to the community college to the employee's optional
 172 program account, and, effective the first day of the next month,
 173 the employer shall pay the applicable contributions based upon
 174 subparagraph 1.

175 7. Effective July 1, 2003, through December 31, 2008, any
 176 member of the optional retirement program who has service credit
 177 in the pension plan of the Florida Retirement System for the
 178 period between his or her first eligibility to transfer from the
 179 pension plan to the optional retirement program and the actual
 180 date of transfer may, during employment, transfer to the
 181 optional retirement program a sum representing the present value
 182 of the accumulated benefit obligation under the defined benefit
 183 retirement program for the period of service credit. Upon
 184 transfer, all service credit previously earned under the pension
 185 plan during this period is nullified for purposes of entitlement
 186 to a future benefit under the pension plan.

187 Section 2. Paragraph (d) of subsection (6) of section
 188 121.055, Florida Statutes, is amended to read:

189 121.055 Senior Management Service Class.—There is hereby
 190 established a separate class of membership within the Florida
 191 Retirement System to be known as the "Senior Management Service
 192 Class," which shall become effective February 1, 1987.

193 (6)

194 (d) *Contributions.*—

195 1.a. Through June 30, 2001, each employer shall contribute
 196 on behalf of each member of the Senior Management Service

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197 Optional Annuity Program an amount equal to the normal cost
 198 portion of the employer retirement contribution which would be
 199 required if the member were a Senior Management Service Class
 200 member of the Florida Retirement System Pension Plan, plus the
 201 portion of the contribution rate required in s. 112.363(8) that
 202 would otherwise be assigned to the Retiree Health Insurance
 203 Subsidy Trust Fund.

204 b. Effective July 1, 2001, through June 30, 2011, each
 205 employer shall contribute on behalf of each member of the
 206 optional annuity program an amount equal to 12.49 percent of the
 207 employee's gross monthly compensation.

208 c. Effective July 1, 2011, through June 30, 2012, each
 209 member of the optional annuity program shall contribute an
 210 amount equal to the employee contribution required under s.
 211 121.71(3). The employer shall contribute on behalf of such
 212 employee an amount equal to the difference between 12.49 percent
 213 of the employee's gross monthly compensation and the amount
 214 equal to the employee's required contribution based on the
 215 employee's gross monthly compensation.

216 d. Effective July 1, 2012, each member of the optional
 217 annuity program shall contribute an amount equal to the employee
 218 contribution required under s. 121.73. The employer shall
 219 contribute on behalf of such employee an amount equal to the
 220 difference between 9.27 percent of the employee's gross monthly
 221 compensation and the amount equal to the employee's required
 222 contribution based on the employee's gross monthly compensation.

223 ~~e.d.~~ The department shall deduct an amount approved by the
 224 Legislature to provide for the administration of this program.

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225 Payment of the contributions, including contributions made by
 226 the employee, shall be made by the employer to the department,
 227 which shall forward the contributions to the designated company
 228 or companies contracting for payment of benefits for the member
 229 under the program.

230 2. Each employer shall contribute on behalf of each member
 231 of the Senior Management Service Optional Annuity Program an
 232 amount equal to the unfunded actuarial accrued liability portion
 233 of the employer contribution which would be required for members
 234 of the Senior Management Service Class in the Florida Retirement
 235 System. This contribution shall be paid to the department for
 236 transfer to the Florida Retirement System Trust Fund.

237 3. An Optional Annuity Program Trust Fund shall be
 238 established in the State Treasury and administered by the
 239 department to make payments to provider companies on behalf of
 240 the optional annuity program members, and to transfer the
 241 unfunded liability portion of the state optional annuity program
 242 contributions to the Florida Retirement System Trust Fund.

243 4. Contributions required for social security by each
 244 employer and employee, in the amount required for social
 245 security coverage as now or hereafter may be provided by the
 246 federal Social Security Act shall be maintained for each member
 247 of the Senior Management Service retirement program and are in
 248 addition to the retirement contributions specified in this
 249 paragraph.

250 5. Each member of the ~~Senior Management Service~~ optional
 251 annuity program may contribute by way of salary reduction or
 252 deduction a percentage amount of the employee's gross

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253 compensation not to exceed the percentage amount contributed by
 254 the employer to the optional annuity program. Payment of the
 255 employee's contributions shall be made by the employer to the
 256 department, which shall forward the contributions to the
 257 designated company or companies contracting for payment of
 258 benefits for the member under the program.

259 Section 3. Paragraph (a) of subsection (4) of section
 260 121.35, Florida Statutes, is amended to read:

261 121.35 Optional retirement program for the State
 262 University System.—

263 (4) CONTRIBUTIONS.—

264 (a)1. Through June 30, 2001, each employer shall
 265 contribute on behalf of each member of the optional retirement
 266 program an amount equal to the normal cost portion of the
 267 employer retirement contribution which would be required if the
 268 employee were a regular member of the Florida Retirement System
 269 Pension Plan, plus the portion of the contribution rate required
 270 in s. 112.363(8) that would otherwise be assigned to the Retiree
 271 Health Insurance Subsidy Trust Fund.

272 2. Effective July 1, 2001, through June 30, 2011, each
 273 employer shall contribute on behalf of each member of the
 274 optional retirement program an amount equal to 10.43 percent of
 275 the employee's gross monthly compensation.

276 3. Effective July 1, 2011, through June 30, 2012, each
 277 member of the optional retirement program shall contribute an
 278 amount equal to the employee contribution required in s.
 279 121.71(3). The employer shall contribute on behalf of each such
 280 member an amount equal to the difference between 10.43 percent

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281 of the employee's gross monthly compensation and the amount
282 equal to the employee's required contribution based on the
283 employee's gross monthly compensation.

284 4. Effective July 1, 2012, each member of the optional
285 retirement program shall contribute an amount equal to the
286 employee contribution required in s. 121.71(3). The employer
287 shall contribute on behalf of each such member an amount equal
288 to the difference between 8.15 percent of the employee's gross
289 monthly compensation and the amount equal to the employee's
290 required contribution based on the employee's gross monthly
291 compensation.

292 ~~5.4.~~ The payment of the contributions, including
293 contributions by the employee, shall be made by the employer to
294 the department, which shall forward the contributions to the
295 designated company or companies contracting for payment of
296 benefits for members of the program. However, such contributions
297 paid on behalf of an employee described in paragraph (3)(c) may
298 not be forwarded to a company and do not begin to accrue
299 interest until the employee has executed a contract and notified
300 the department. The department shall deduct an amount from the
301 contributions to provide for the administration of this program.

302 Section 4. Subsections (4) and (5) of section 121.71,
303 Florida Statutes, are amended to read:

304 121.71 Uniform rates; process; calculations; levy.—

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

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	Membership Class	Percentage of Gross Compensation, Effective July 1, <u>2012</u> 2011	Percentage of Gross Compensation, Effective July 1, <u>2013</u> 2012
309			
310			
311	Regular Class	<u>3.55%</u> 3.28%	<u>3.55%</u> 3.28%
312	Special Risk Class	<u>11.01%</u> 10.21%	<u>11.01%</u> 10.21%
313	Special Risk Administrative Support Class	<u>3.94%</u> 4.07%	<u>3.94%</u> 4.07%
314	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	<u>6.51%</u> 7.02%	<u>6.51%</u> 7.02%
315	Elected Officers' Class— Justices, Judges	<u>10.02%</u> 9.78%	<u>10.02%</u> 9.78%

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Elected Officers' Class—	<u>8.36%</u> 9.27%	<u>8.36%</u> 9.27%
County Elected Officers		

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Senior Management Class	<u>4.84%</u> 4.81%	<u>4.84%</u> 4.81%
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DROP	<u>4.33%</u> 3.31%	<u>4.33%</u> 3.31%
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319 (5) In order to address unfunded actuarial liabilities of
 320 the system, the required employer retirement contribution rates
 321 for each membership class and subclass of the Florida Retirement
 322 System for both retirement plans are as follows:

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Membership Class	Percentage of Gross Compensation, Effective July 1, <u>2012</u> 2011	Percentage of Gross Compensation, Effective July 1, <u>2013</u> 2012
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Regular Class	0.49%	<u>2.02%</u> 2.16%
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Special Risk Class	2.75%	<u>7.03%</u> 8.21%
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Special Risk Administrative	0.83%	<u>27.04%</u> 21.40%
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328	Support Class			
	Elected Officers' Class—	0.88%	<u>27.18%</u>	21.76%
	Legislators, Governor,			
	Lt. Governor,			
	Cabinet Officers,			
	State Attorneys,			
	Public Defenders			
329	Elected Officers' Class—	0.77%	<u>16.38%</u>	12.86%
	Justices, Judges			
330	Elected Officers' Class—	0.73%	<u>23.01%</u>	22.05%
	County Elected Officers			
331	Senior Management Service	0.32%	<u>11.25%</u>	10.51%
	Class			
332	DROP	0.00%	<u>6.21%</u>	6.36%

334 Section 5. Subsection (4) of section 121.72, Florida
 335 Statutes, is amended, and subsection (5) is added to that
 336 section, to read:

337 121.72 Allocations to investment plan member accounts;
 338 percentage amounts.—

339 (4) Effective July 1, 2002, through June 30, 2012,
 340 allocations from the Florida Retirement System Contributions

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341 Clearing Trust Fund to investment plan member accounts are as
 342 follows:

343	Membership Class	Percentage of Gross Compensation
344		
345	Regular Class	9.00%
346	Special Risk Class	20.00%
347	Special Risk Administrative Support Class	11.35%
348	Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.40%
349	Elected Officers' Class— Justices, Judges	18.90%
350	Elected Officers' Class— County Elected Officers	16.20%
351	Senior Management Service Class	10.95%
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353 (5) Effective July 1, 2012, allocations from the Florida
 354 Retirement System Contributions Clearing Trust Fund to
 355 investment plan member accounts are as follows:

<u>Membership Class</u>	<u>Percentage of</u> <u>Gross</u> <u>Compensation</u>
<u>Regular Class</u>	<u>6.30%</u>
<u>Special Risk Class</u>	<u>14.00%</u>
<u>Special Risk Administrative Support Class</u>	<u>7.95%</u>
<u>Elected Officers' Class—</u> <u>Legislators, Governor,</u> <u>Lt. Governor, Cabinet Officers,</u> <u>State Attorneys, Public Defenders</u>	<u>9.38%</u>
<u>Elected Officers' Class—</u> <u>Justices, Judges</u>	<u>13.23%</u>
<u>Elected Officers' Class—</u> <u>County Elected Officers</u>	<u>11.34%</u>

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Senior Management Service Class 7.67%

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Section 6. Paragraph (a) of subsection (4) of section 1012.875, Florida Statutes, is amended to read:

1012.875 State Community College System Optional Retirement Program.—Each Florida College System institution may implement an optional retirement program, if such program is established therefor pursuant to s. 1001.64(20), under which annuity or other contracts providing retirement and death benefits may be purchased by, and on behalf of, eligible employees who participate in the program, in accordance with s. 403(b) of the Internal Revenue Code. Except as otherwise provided herein, this retirement program, which shall be known as the State Community College System Optional Retirement Program, may be implemented and administered only by an individual Florida College System institution or by a consortium of Florida College System institutions.

(4) (a) 1. Through June 30, 2011, each college must contribute on behalf of each program member an amount equal to 10.43 percent of the employee's gross monthly compensation.

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

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390 monthly compensation and the employee's required contribution
 391 based on the employee's gross monthly compensation.

392 3. Effective July 1, 2012, each member shall contribute an
 393 amount equal to the employee contribution required under s.
 394 121.71(3). The employer shall contribute on behalf of each
 395 program member an amount equal to the difference between 8.15
 396 percent of the employee's gross monthly compensation and the
 397 employee's required contribution based on the employee's gross
 398 monthly compensation.

399 ~~4.3.~~ The college shall deduct an amount approved by the
 400 district board of trustees of the college to provide for the
 401 administration of the optional retirement program. Payment of
 402 this contribution must be made directly by the college or
 403 through the program administrator to the designated company
 404 contracting for payment of benefits to the program member.

405 Section 7. The Legislature finds that a proper and
 406 legitimate state purpose is served when employees and retirees
 407 of the state and its political subdivisions, and the dependents,
 408 survivors, and beneficiaries of such employees and retirees, are
 409 extended the basic protections afforded by governmental
 410 retirement systems. These persons must be provided benefits that
 411 are fair and adequate and that are managed, administered, and
 412 funded in an actuarially sound manner, as required by s. 14,
 413 Article X of the State Constitution and part VII of chapter 112,
 414 Florida Statutes. Therefore, the Legislature determines and
 415 declares that this act fulfills an important state interest.

416 Section 8. This act shall take effect July 1, 2012.